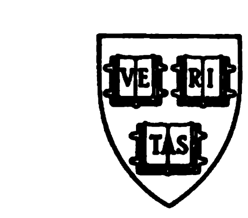

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THE

FEDERAL AND STATE CONSTITUTIONS,

COLONIAL CHARTERS,

AND OTHER

ORGANIC LAWS

OF

THE UNITED STATES.

PART I.

COMPILED UNDER AN ORDER OF THE UNITED STATES SENATE
By BEN: PERLEY POORE,
CLERK OF PRINTING RECORDS.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1877.

REPORT BY THE COMPILER.

WASHINGTON, D. C., *January* 1, 1877.

Hon. HENRY B. ANTHONY,

Chairman of the Senate Committee on Public Printing:

SENATOR: I have the honor to submit a copy of the Federal and State constitutions, colonial charters, and other organic laws of the United States, compiled under the direction of the Committee on Public Printing, in accordance with an order of the United States Senate.

Congress, before declaring a final separation from Great Britain in 1776, formally recommended to the Assemblies and Conventions of the Colonies the establishment of independent governments "for the maintenance of internal peace, and the defence of their lives, liberties and properties." The constitutions adopted in response to this request, which were the basis of the State governments, were collected and published, with the Declaration of Independence and the Articles of Confederation, in a small volume, copies of which were distributed at home and abroad. Since that time numerous editions of different compilations of "The American Constitutions" have been published by private enterprise, many of them containing important errors. In two instances constitutions were published which had not been adopted by the States to which they were assigned, and there were often grave mistakes in copying.

Before preparing an accurate and complete edition of the Organic Laws of the Union and of the States, the advice of distinguished historians and jurists was sought and followed in maturing the plan which received the sanction of the Committee on Public Printing, and which I have endeavored to execute. While nearly all of the State Secretaries of State have cordially co-operated, some of them rendering valuable assistance, a few either did not furnish the desired information concerning the constitutions of their respective States, or indirectly demanded pecuniary compensation for the trouble entailed by the necessary researches, and a great deal of time has been unavoidably consumed in correspondence with gentlemen at the various capitals and elsewhere in obtaining reliable copies of constitutions and amendments. Should there be any errors or omissions discovered in the edition ordered to be printed by the Senate, which is small in number, they can be corrected, if Congress deems the work worthy of a more extended circulation. The index can be enlarged and made more in detail if desirable.

In the performance of the task assigned me I have been greatly aided by your advice and assistance, and I hope that you will be repaid by the accuracy, the usefulness, and the value of the work.

I remain, Senator, faithfully and respectfully, your obedient servant,

BEN: PERLEY POORE,
Clerk of Printing Records, U. S. S.

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THE ORGANIC LAWS

OF

THE UNITED STATES OF AMERICA.

I O L

THE DECLARATION OF INDEPENDENCE—1776.*

IN CONGRESS, JULY 4, 1776.

The unanimous Declaration of the thirteen united States of America,

WHEN in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments

* The delegates of the United Colonies of New Hampshire; Massachusetts Bay; Rhode Island and Providence Plantations; Connecticut; New York; New Jersey; Pennsylvania; New Castle, Kent, and Sussex, in Delaware; Maryland; Virginia; North Carolina, and South Carolina, In Congress assembled at Philadelphia, *Resolved* on the 10th of May, 1776, to recommend to the respective assemblies and conventions of the United Colonies, where no government sufficient to the exigencies of their affairs had been established, to adopt such a government as should, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and of America in general. A preamble to this resolution, agreed to on the 15th of May, stated the intention to be totally to suppress the exercise of every kind of authority under the British crown. On the 7th of June, certain resolutions respecting independency were moved and seconded. On the 10th of June, it was resolved, that a committee should be appointed to prepare a declaration to the following effect: "That the United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British crown; and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved." On the preceding day it was determined that the committee for preparing the declaration should consist of five, and they were chosen accordingly, in the following order: Mr. Jefferson, Mr. J. Adams, Mr. Franklin, Mr. Sherman, Mr. R. R. Livingston. On the 11th of June, a resolution was passed to appoint a committee to prepare and digest the form of a confederation to be entered into between the colonies, and another committee to prepare a plan of treaties to be proposed to foreign powers. On the 12th of June, it was resolved, that a committee of Congress should be appointed by the name of a board of war and ordnance, to consist of five members. On the 25th of June, a declaration of the deputies of Pennsylvania, met in provincial conference, expressing their willingness to concur in a vote declaring the United Colonies free and independent States, was laid before Congress and read. On the 28th of June, the committee appointed to prepare a declaration of independence brought in a draught, which was read, and ordered to lie on the table. On the 1st of July, a resolution of the convention of Maryland, passed the 28th of June, authorizing the deputies of that colony to concur in declaring the United Colonies free and independent States, was laid before Congress and read. On the samo day Congress resolved itself into a committee of the whole, to take into consideration the resolution respecting independency. On the 2d of July, a resolution declaring the colonies free and independent States, was adopted. A declaration to that effect was, on the same and the following days, taken into further consideration. Finally, on the 4th of July, the Declaration of Independence was agreed to, engrossed on paper, signed by John Hancock as President, and directed to be sent to the several assemblies, conventions, and committees, or councils of safety, and to the several commanding officers of the continental troops, and to be proclaimed in each of the United States, and at the head of the Army. It was also ordered to be entered upon the Journals of Congress, and on the 2d of August, a copy engrossed on parchment was signed by all but one of the fifty-six signers whose names are appended to it. That one was Matthew Thornton, of New Hampshire, who on taking his seat in November asked and obtained the privilege of signing it. Several who signed it on the 2d of August were absent when it was adopted on the 4th of July, but, approving of it, they thus signified their approbation.

NOTE.—The proof of this document as published above, was read by Mr. Ferdinand Jefferson, the Keeper of the Rolls at the Department of State, at Washington, who compared it with the fac-simile of the original in his custody. He says: "In the fac-simile, as in the original, the whole instrument runs on without a break, but dashes are mostly inserted. I have, in this copy, followed the arrangement of paragraphs adopted in the publication of the Declaration in the newspaper of John Dunlap, and as printed by him for the Congress, which printed copy is inserted in the original Journal of the old Congress. The same paragraphs are also made by the author, in the original draught preserved in the Department of State."

are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative Powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary Powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our People, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislature.

He has affected to render the Military independent of and superior to the Civil Power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from Punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing taxes on us without our Consent:

For depriving us in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with Power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free People.

Nor have We been wanting in attention to our Brittish brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the Protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

JOHN HANCOCK.

New Hampshire.

JOSIAH BARTLETT,
WM. WHIPPLE,
MATTHEW THORNTON.

Massachusetts Bay.

SAML. ADAMS,
JOHN ADAMS,
ROBT. TREAT PAINE,
ELBRIDGE GERRY.

Rhode Island.

STEP. HOPKINS,
WILLIAM ELLERY.

Connecticut.

Roger Sherman,
Sam'el Huntington,
Wm. Williams,
Oliver Wolcott.

New York.

Wm. Floyd,
Phil. Livingston,
Frans. Lewis,
Lewis Morris.

New Jersey.

Richd. Stockton,
Jno. Witherspoon,
Fras. Hopkinson,
John Hart,
Abra. Clark.

Pennsylvania.

Robt. Morris,
Benjamin Rush,
Benja. Franklin,
John Morton,
Geo. Clymer,
Jas. Smith,
Geo. Taylor,
James Wilson,
Geo. Ross.

Delaware.

Cæsar Rodney,
Geo. Read,
Tho. M'Kean.

Maryland.

Samuel Chase,
Wm. Paca,
Thos. Stone,
Charles Carroll of Carrollton.

Virginia.

George Wythe,
Richard Henry Lee,
Th Jefferson,
Benja. Harrison,
Thos. Nelson, jr.,
Francis Lightfoot Lee,
Carter Braxton.

North Carolina.

Wm. Hooper,
Joseph Hewes,
John Penn.

South Carolina.

Edward Rutledge,
Thos. Heyward, Junr.,
Thomas Lynch, Junr.,
Arthur Middleton.

Georgia.

Button Gwinnett,
Lyman Hall,
Geo. Walton.

Note.—Mr. Ferdinand Jefferson, Keeper of the Rolls in the Department of State, at Washington, says: "The names of the signers are spelt above as in the fac-simile of the original, but the punctuation of them is not always the same; neither do the names of the States appear in the fac-simile of the original. The names of the signers of each State are grouped together in the fac-simile of the original, except the name of Matthew Thornton, which follows that of Oliver Wolcott."

ARTICLES OF CONFEDERATION—1777.*

To all to whom these Presents shall come, we the undersigned Delegates of the States affixed to our Names send greeting.

Whereas the Delegates of the United States of America in Congress assembled did on the fifteenth day of November in the Year of our Lord One Thousand Seven Hundred and Seventyseven, and in the Second Year of the Independence of America agree to certain articles of Confederation and perpetual Union between the States of Newhampshire, Massachusetts-bay, Rhodeisland and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia in the Words following, viz.

"*Articles of Confederation and perpetual Union between the States of Newhampshire, Massachusetts-bay, Rhodeisland and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia.*

ARTICLE I. The stile of this confederacy shall be "The United States of America."

ARTICLE II. Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.

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* Congress *Resolved*, on the 11th of June, 1776, that a committee should be appointed to prepare and digest the form of a confederation to be entered into between the Colonies; and on the day following, after it had been determined that the committee should consist of a member from each Colony, the following persons were appointed to perform that duty, to wit: Mr. Bartlett, Mr. S. Adams, Mr. Hopkins, Mr. Sherman, Mr. R. R. Livingston, Mr. Dickinson, Mr. M'Kean, Mr. Stone, Mr. Nelson, Mr. Hewes, Mr. E. Rutledge, and Mr. Gwinnett. Upon the report of this committee, the subject was, from time to time, debated, until the 15th of November, 1777, when a copy of the confederation being made out, and sundry amendments made in the diction, without altering the sense, the same was finally agreed to. Congress, at the same time, directed that the articles should be proposed to the legislatures of all the United States, to be considered, and if approved of by them, they were advised to authorize their delegates to ratify the same in the Congress of the United States; which being done, the same should become conclusive. Three hundred copies of the Articles of Confederation were ordered to be printed for the use of Congress; and on the 17th of November, the form of a circular letter to accompany them was brought in by a committee appointed to prepare it, and being agreed to, thirteen copies of it were ordered to be made out, to be signed by the president and forwarded to the several States, with copies of the confederation. On the 29th of November ensuing, a committee of three was appointed, to procure a translation of the articles to be made into the French language, and to report an address to the inhabitants of Canada, &c. On the 26th of June, 1778, the form of a ratification of the Articles of Confederation was adopted, and, it having been engrossed on parchment, it was signed on the 9th of July on the part and in behalf of their respective States, by the delegates of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, Pennsylvania, Virginia, and South Carolina, agreeably to the powers vested in them. The delegates of North Carolina signed on the 21st of July, those of Georgia on the 24th of July, and those of New Jersey on the 26th of November following. On the 5th of May, 1779, Mr. Dickinson and Mr. Van Dyke signed in behalf of the State of Delaware, Mr. M'Kean having previously signed in February, at which time he produced a power to that effect. Maryland did not ratify until the year 1781. She had instructed her delegates, on the 15th of December, 1778, not to agree to the confederation until matters respecting the western lands should be settled on principles of equity and sound policy; but, on the 30th of January, 1781, finding that the enemies of the country took advantage of the circumstance to disseminate opinions of an ultimate dissolution of the Union, the legislature of the State passed an act to empower their delegates to subscribe and ratify the articles, which was accordingly done by Mr. Hanson and Mr. Carroll, on the 1st of March of that year, which completed the ratifications of the act; and Congress assembled on the 2d of March under the new powers.

NOTE.—The proof of this document, as published above, was read by Mr. Ferdinand Jefferson, the Keeper of the Rolls of the Department of State, at Washington, who compared it with the original in his custody. He says: "The initial letters of many of the words in the original of this instrument are capitals, but as no system appears to have been observed, the same word sometimes beginning with a capital and sometimes with a small letter, I have thought it best not to undertake to follow the original in this particular. Moreover, there are three forms of the letter s: the capital S, the small s, and the long ſ, the last being used indiscriminately to words that should begin with a capital and those that should begin with a small s."

Article III. The said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

Article IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State, to any other State of which the owner is an inhabitant; provided also that no imposition, duties or restriction shall be laid by any State, on the property of the United States, or either of them.

If any person guilty of, or charged with treason, felony, or other high misdemeanor in any State, shall flee from justice, and be found in any of the United States, he shall upon demand of the Governor or Executive power, of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offence.

Full faith and credit shall be given in each of these States to the records, acts and judicial proceedings of the courts and magistrates of every other State.

Article V. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each State, to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the year.

No State shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit receives any salary, fees or emolument of any kind.

Each State shall maintain its own delegates in a meeting of the States, and while they act as members of the committee of the States.

In determining questions in the United States, in Congress assembled, each State shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court, or place out of Congress, and the members of Congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from, and attendance on Congress, except for treason, felony, or breach of the peace.

Article VI. No State without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conferrence, agreement, alliance or treaty with any king prince or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office or title of any kind whatever from any king, prince or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation or alliance whatever between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties, which may interfere with any stipulations in treaties, entered into by the United States in Congress assembled, with any king, prince or state, in pursuance of any treaties already proposed by Congress, to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any State, except such number only, as shall be deemed necessary by the United States in Congress assembled,

for the defence of such State, or its trade; nor shall any body of forces be kept up by any State, in time of peace, except such number only, as in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such State; but every State shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

No State shall engage in any war without the consent of the United States in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay, till the United States in Congress assembled can be consulted: nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

Article VII. When land-forces are raised by any State for the common defence, all officers of or under the rank of colonel, shall be appointed by the Legislature of each State respectively by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

Article VIII. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States, in proportion to the value of all land within each State, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the United States in Congress assembled, shall from time to time direct and appoint.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the Legislatures of the several States within the time agreed upon by the United States in Congress assembled.

Article IX. The United States in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article—of sending and receiving ambassadors—entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever—of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated—of granting letters of marque and reprisal in times of peace—appointing courts for the trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more States concerning boundary, jurisdiction or any other cause whatever; which authority shall always be exercised in the manner following. Whenever the legislative or executive authority or lawful agent of any State in controversy with another shall present a petition to Congress, stating the matter in question and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent, commissioners or judges to constitute a court for hearing and determining the

matter in question: but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine names as Congress shall direct, shall in the presence of Congress be drawn out by lot, and the persons whose names shall be so drawn or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons, which Congress shall judge sufficient, or being present shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the Secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed, in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favour, affection or hope of reward:" provided also that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdiction as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall on the petition of either party to the Congress of the United States, be finally determined as near as may be in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States.—fixing the standard of weights and measures throughout the United States.—regulating the trade and managing all affairs with the Indians, not members of any of the States, provided that the legislative right of any State within its own limits be not infringed or violated—establishing and regulating post-offices from one State to another, throughout all the United States, and exacting such postage on the papers passing thro' the same as may be requisite to defray the expenses of the said office—appointing all officers of the land forces, in the service of the United States, excepting regimental officers—appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States—making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated "a Committee of the States," and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction—to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses—to borrow money, or emit bills on the credit of the United States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted,—to build and equip a navy—to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State; which requisition shall be binding, and thereupon the Legislature of each State shall appoint the regimental officers, raise the

men and cloath, arm and equip them in a soldier like manner, at the expense of the United States; and the officers and men so cloathed, armed and equipped shall march to the place appointed, and within the time agreed on by the United States in Congress assembled: but if the United States in Congress assembled shall, on consideration of circumstances judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, cloathed, armed and equipped in the same manner as the quota of such State, unless the legislature of such State shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise officer, cloath, arm and equip as many of such extra number as they judge can be safely spared. And the officers and men so cloathed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war, to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine States assent to the same: nor shall a question on any other point, except for adjourning from day to day be determined, unless by the votes of a majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances or military operations, as in their judgment require secresy; and the yeas and nays of the delegates of each State on any question shall be entered on the journal, when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the Legislatures of the several States.

Article X. The committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine States, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine States in the Congress of the United States assembled is requisite.

Article XI. Canada acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this Union: but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

Article XII. All bills of credit emitted, monies borrowed and debts contracted by, or under the authority of Congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States, and the public faith are hereby solemnly pledged.

Article XIII. Every State shall abide by the determinations of the United States in Congress assembled, on all questions which by this confederation are submitted to them. And the articles of this confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislatures of every State.

And whereas it has pleased the Great Governor of the world to incline the hearts of the Legislatures we respectively represent in Congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union. Know ye that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective con-

stituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained: and we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, on all questions, which by the said confederation are submitted to them. And that the articles thereof shall be inviolably observed by the States we re[s]pectively represent, and that the Union shall be perpetual.

In witness whereof we have hereunto set our hands in Congress. Done at Philadelphia in the State of Pennsylvania the ninth day of July in the year of our Lord one thousand seven hundred and seventy-eight, and in the third year of the independence of America.*

On the part & behalf of the State of New Hampshire.

JOSIAH BARTLETT,
JOHN WENTWORTH, Junr., August 8th, 1778.

On the part and behalf of the State of Massachusetts Bay.

JOHN HANCOCK,
SAMUEL ADAMS,
ELBRIDGE GERRY,
FRANCIS DANA,
JAMES LOVELL,
SAMUEL HOLTEN.

On the part and behalf of the State of Rhode Island and Providence Plantations.

WILLIAM ELLERY,
HENRY MARCHANT,
JOHN COLLINS.

On the part and behalf of the State of Connecticut.

ROGER SHERMAN,
SAMUEL HUNTINGTON,
OLIVER WOLCOTT,
TITUS HOSMER,
ANDREW ADAMS.

On the part and behalf of the State of New York.

JAS. DUANE,
FRA. LEWIS,
WM. DUER,
GOUV. MORRIS.

On the part and in behalf of the State of New Jersey, Novr. 26, 1778.

JNO. WITHERSPOON,
NATHL. SCUDDER.

On the part and behalf of the State of Pennsylvania.

ROBT. MORRIS,
DANIEL ROBERDEAU,
JONA. BAYARD SMITH,
WILLIAM CLINGAN,
JOSEPH REED, 22d July, 1778.

On the part & behalf of the State of Delaware.

THO. M'KEAN, Feby. 12, 1779.
JOHN DICKINSON, May 5th, 1779.
NICHOLAS VAN DYKE.

On the part and behalf of the State of Maryland.

JOHN HANSON, March 1, 1781.
DANIEL CARROLL, Mar. 1, 1781.

On the part and behalf of the State of Virginia.

RICHARD HENRY LEE,
JOHN BANISTER,
THOMAS ADAMS,
JNO. HARVIE,
FRANCIS LIGHTFOOT LEE.

On the part and behalf of the State of No. Carolina.

JOHN PENN, July 21st, 1778.
CORNS. HARNETT,
JNO. WILLIAMS.

On the part & behalf of the State of South Carolina.

HENRY LAURENS,
WILLIAM HENRY DRAYTON,
JNO. MATHEWS,
RICHD. HUTSON,
THOS. HEYWARD, Junr.

On the part & behalf of the State of Georgia.

JNO. WALTON, 24th July, 1778.
EDWD. TELFAIR,
EDWD. LANGWORTHY.

* From the circumstance of delegates from the same State having signed the Articles of Confederation at different times, as appears by the dates, it is probable they affixed their names as they happened to be present in Congress, after they had been authorized by their constituents.

CONSTITUTION OF THE UNITED STATES—1787.*

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

ARTICLE I.

SECTION 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

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* In May, 1785, a committee of Congress made a report recommending an alteration in the Articles of Confederation, but no action was taken on it, and it was left to the State Legislatures to proceed in the matter. In January, 1786, the Legislature of Virginia passed a resolution providing for the appointment of five commissioners, who, or any three of them, should meet such commissioners as might be appointed in the other States of the Union, at a time and place to be agreed upon, to take into consideration the trade of the United States; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several States such an act, relative to this great object, as, when ratified by them, will enable the United States in Congress effectually to provide for the same. The Virginia commissioners, after some correspondence, fixed the first Monday in September as the time, and the city of Annapolis as the place for the meeting, but only four other States were represented, viz: Delaware, New York, New Jersey, and Pennsylvania; the commissioners appointed by Massachusetts, New Hampshire, North Carolina, and Rhode Island failed to attend. Under the circumstances of so partial a representation, the commissioners present agreed upon a report, (drawn by Mr. Hamilton, of New York,) expressing their unanimous conviction that it might essentially tend to advance the interests of the Union if the States by which they were respectively delegated would concur, and use their endeavors to procure the concurrence of the other States, in the appointment of commissioners to meet at Philadelphia on the second Monday of May following, to take into consideration the situation of the United States; to devise such further provisions as should appear to them necessary to render the Constitution of the Federal Government adequate to the exigencies of the Union; and to report such an act for that purpose to the United States in Congress assembled as, when agreed to by them and afterwards confirmed by the Legislatures of every State, would effectually provide for the same.

Congress, on the 21st of February, 1787, adopted a resolution in favor of a convention, and the Legislatures of those States which had not already done so (with the exception of Rhode Island) promptly appointed delegates. On the 25th of May, seven States having convened, George Washington, of Virginia, was unanimously elected President, and the consideration of the proposed constitution was commenced. On the 17th of September, 1787, the Constitution as engrossed and agreed upon was signed by all the members present, except Mr. Gerry, of Massachusetts, and Messrs. Mason and Randolph, of Virginia. The President of the convention transmitted it to Congress, with a resolution stating how the proposed Federal Government should be put in operation, and an explanatory letter. Congress, on the 28th of September, 1787, directed the Constitution so framed, with the resolutions and letter concerning the same, to "be transmitted to the several Legislatures in order to be submitted to a convention of delegates chosen in each State by the people thereof, in conformity to the resolves of the convention."

On the 4th of March, 1789, the day which had been fixed for commencing the operations of Government under the new Constitution, it had been ratified by the conventions chosen in each State to consider it, as follows: Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 9, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 26, 1788; and New York, July 26, 1788.

The President informed Congress, on the 28th of January, 1789, that South Carolina had ratified the Constitution November 21, 1789; and he informed Congress on the 1st of June, 1790, that Rhode Island had ratified the Constitution May 29, 1789. Vermont, in convention, ratified the Constitution January 10, 1789, and was, by an act of Congress approved February 19, 1791, "received and admitted into this Union as a new and entire member of the United States."

SECTION 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of Free persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

SECTION 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The seats of the Senators of the first Class shall be vacated at the Expiration of the second year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one-third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION 4. The Times, Places and manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be

on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION 6. The Senators and Representatives shall receive a Compensation for their services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION 7. All bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

SECTION 8. The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

SECTION 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

SECTION 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

ARTICLE II.*

SECTION 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

SECTION 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual

* The original third section of the second article, which was superseded and annulled by the twelfth amendment, ratified in 1804, was as follows:

"The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately chuse by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner chuse the President. But in chusing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall chuse from them by ballot the Vice-President."

Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

SECTION 3. He shall from time to time give to the Congress Information of the state of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and, in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

SECTION 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

ARTICLE III.

SECTION 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

SECTION 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

SECTION 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

ARTICLE IV.

SECTION 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

SECTION 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

SECTION 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

SECTION 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

ARTICLE V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

ARTICLE VI.

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstandiug.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

ARTICLE VII.

The ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

DONE in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven, and of the Independance of the United States of America the Twelfth **In witness** whereof We have hereunto subscribed our Names,

G^{o}: WASHINGTON—
Presidt. and Deputy from Virginia

New Hampshire.

JOHN LANGDON, NICHOLAS GILMAN.

Massachusetts.

NATHANIEL GORHAM, RUFUS KING.

Connecticut.

WM. SAML. JOHNSON, ROGER SHERMAN.

New York.

ALEXANDER HAMILTON.

New Jersey.

WIL: LIVINGSTON,
DAVID BREARLEY,
WM. PATERSON,
JONA. DAYTON.

Pennsylvania.

B. FRANKLIN,
THOMAS MIFFLIN,
ROBT. MORRIS,
GEO. CLYMER,
THOS. FITZSIMONS,
JARED INGERSOLL,
JAMES WILSON,
GOUV. MORRIS.

Delaware.

GEO. READ,
GUNNING BEDFORD, Jun.,
JOHN DICKINSON,
RICHARD BASSETT,
JACO: BROOM.

Maryland.

JAMES MCHENRY,
DAN. JENIFER, OF ST. THOMAS,
DAN. CARROLL.

Virginia.

JOHN BLAIR, JAMES MADISON, Jr.

North Carolina.

WM. BLOUNT,
RICH'D DOBBS SPEIGHT,
HUGH WILLIAMSON.

South Carolina.

J. RUTLEDGE,
CHARLES COTESWORTH PINCKNEY,
CHARLES PINCKNEY,
PIERCE BUTLER.

Georgia.

WILLIAM FEW, ABR. BALDWIN.

Attest: WILLIAM JACKSON, *Secretary.*

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

[ARTICLE I.]*

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

[ARTICLE II.]

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

[ARTICLE III.]

No Soldier shall, in time of peace, be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

[ARTICLE IV.]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

[ARTICLE V.]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

[ARTICLE VI.]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

[ARTICLE VII.]

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

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* The first ten amendments to the Constitution of the United States were proposed to the legislatures of the several States by the First Congress, on the 25th of September, 1789. They were ratified by the following States, and the notifications of ratification by the governors thereof were successively communicated by the President to Congress: New Jersey, November 20, 1789; Maryland, December 19, 1789; North Carolina, December 22, 1789; South Carolina, January 19, 1790; New Hampshire, January 25, 1790; Delaware, January 28, 1790; Pennsylvania, March 10, 1790; New York, March 27, 1790; Rhode Island, June 15, 1790; Vermont, November 3, 1791, and Virginia, December 15, 1791. There is no evidence on the journals of Congress that the legislatures of Connecticut, Georgia, and Massachusetts ratified them.

[ARTICLE VIII.]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

[ARTICLE IX.]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

[ARTICLE X.]

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

[ARTICLE XI.]*

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

[ARTICLE XII.]†

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

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* The eleventh amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Third Congress, on the 5th of September, 1794; and was declared in a message from the President to Congress, dated the 8th of January, 1798, to have been ratified by the legislatures of three-fourths of the States.

† The twelfth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Eighth Congress, on the 12th of December, 1803, in lieu of the third paragraph of the first section of the third article; and was declared in a proclamation of the Secretary of State, dated the 25th of September, 1804, to have been ratified by the legislatures of three-fourths of the States.

[ARTICLE XIII.]*

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

[ARTICLE XIV.]†

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law,

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* The thirteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Thirty-eighth Congress, on the 1st of February, 1865; and was declared, in a proclamation of the Secretary of State, dated the 18th of December, 1865, to have been ratified by the legislatures of twenty-seven of the thirty-six States, viz: Illinois, Rhode Island, Michigan, Maryland, New York, West Virginia, Maine, Kansas, Massachusetts, Pennsylvania, Virginia, Ohio, Missouri, Nevada, Indiana, Louisiana, Minnesota, Wisconsin, Vermont, Tennessee, Arkansas, Connecticut, New Hampshire, South Carolina, Alabama, North Carolina, and Georgia.

† The fourteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Thirty-ninth Congress, on the 16th of June, 1866. On the 21st of July, 1868, Congress adopted and transmitted to the Department of State a concurrent resolution, declaring that "the legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West Virginia, Kansas, Maine, Nevada, Missouri, Indiana, Minnesota, New Hampshire, Massachusetts, Nebraska, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three-fourths and more of the several States of the Union, have ratified the fourteenth article of amendment to the Constitution of the United States, duly proposed by two-thirds of each House of the Thirty-ninth Congress: Therefore, *Resolved*, That said fourteenth article is hereby declared to be a part of the Constitution of the United States, and it shall be duly promulgated as such by the Secretary of State." The Secretary of State accordingly issued a proclamation, dated the 28th of July, 1868, declaring that the proposed fourteenth amendment had been ratified in the manner hereafter mentioned by the legislatures of thirty of the thirty-six States, viz: Connecticut, June 30, 1866; New Hampshire, July 7, 1866; Tennessee, July 19, 1866; New Jersey, September 11, 1866, (and the legislature of the same State passed a resolution in April, 1868, to withdraw its consent to it;) Oregon, September 19, 1866; Vermont, November 9, 1866; Georgia rejected it November 13, 1866, and ratified it July 21, 1868; North Carolina rejected it December 4, 1866, and ratified it July 4, 1868; South Carolina rejected it December 20, 1866, and ratified it July 9, 1868; New York ratified it January 10, 1867; Ohio ratified it January 11, 1867, (and the legislature of the same State passed a resolution in January, 1868, to withdraw its consent to it;) Illinois ratified it January 15, 1867; West Virginia, January 16, 1867; Kansas, January 18, 1867; Maine, January 19, 1867; Nevada, January 22, 1867; Missouri, January 26, 1867; Indiana, January 29, 1867; Minnesota, February 1, 1867; Rhode Island, February 7, 1867; Wisconsin, February 13, 1867; Pennsylvania, February 13, 1867; Michigan, February 15, 1867; Massachusetts, March 20, 1867; Nebraska, June 15, 1867; Iowa, April 3, 1868; Arkansas, April 6, 1868; Florida, June 9, 1868; Louisiana, July 9, 1868; and Alabama, July 13, 1868.

including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

[ARTICLE XV.*]

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES, PROPOSED BY CONGRESS, BUT NOT RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

PROPOSED BY THE FIRST CONGRESS, FIRST SESSION, MARCH 4, 1789.†

ARTICLE I. After the first enumeration required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which, the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons.

ART. II. No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

PROPOSED BY THE ELEVENTH CONGRESS, SECOND SESSION, NOVEMBER 27, 1809.

If any citizen of the United States shall accept, claim, receive or retain any title of nobility or honor, or shall, without the consent of Congress, accept and retain any present, pension, office or emolument of any kind whatever, from any emperor, king, prince, or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them.

PROPOSED BY THE THIRTY-SIXTH CONGRESS, SECOND SESSION, MARCH 2, 1861.

ARTICLE XIII. No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere, within any State, with the domestic institutions thereof, including that of persons held to labor or service by the laws of said State.

* The fifteenth amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Fortieth Congress, on the 27th of February, 1869, and was declared, in a proclamation of the Secretary of State dated March 30, 1870, to have been ratified by the legislatures of twenty-nine of the thirty-seven States. The dates of these ratifications (arranged in the order of their reception at the Department of State) were: from North Carolina, March 5, 1869; West Virginia, March 3, 1869; Massachusetts, March 9–12, 1869; Wisconsin, March 9, 1869; Maine, March 12, 1869; Louisiana, March 5, 1869; Michigan, March 8, 1869; South Carolina, March 16, 1869; Pennsylvania, March 26, 1869; Arkansas, March 30, 1869; Connecticut, May 19, 1869; Florida, June 15, 1869; Illinois, March 5, 1869; Indiana, May 13–14, 1869; New York, March 17–April 14, 1869, (and the legislature of the same State passed a resolution January 5, 1870, to withdraw its consent to it;) New Hampshire, July 7, 1869; Nevada, March 1, 1869; Vermont, October 21, 1869; Virginia, October 8, 1869; Missouri, January 10, 1870; Mississippi, January 15–17, 1870; Ohio, January 27, 1870; Iowa, February 3, 1870; Kansas, January 18–19, 1870; Minnesota, February 19, 1870; Rhode Island, January 18, 1870; Nebraska, February 17, 1870; Texas, February 18, 1870. The State of Georgia also ratified the amendment February 2, 1870.

† Ten amendments which followed these, and were proposed by Congress to the Legislatures of the States, were ratified, and became the ten first articles of amendment to the Constitution.



THE ORGANIC LAWS

OF

THE STATES OF THE UNION.

ALABAMA.*

PROPRIETARY CHARTER OF CAROLINA—1663.

[See "North Carolina," pages 1382–1390.]

PROPRIETARY CHARTER OF GEORGIA—1732.

[See "Georgia," pages 369–377.]

CONSTITUTION OF GEORGIA—1777.

[See "Georgia," pages 377–383.]

THE TERRITORIAL GOVERNMENT OF MISSISSIPPI—1798.

[See "Mississippi," pages 1049, 1050.]

THE TERRITORIAL GOVERNMENT OF ALABAMA—1817.†

[FOURTEENTH CONGRESS, SECOND SESSION.]

An act to establish a separate Territorial Government for the eastern part of the Mississippi Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the Mississippi Territory which lies within the following boundaries, to wit: Beginning at the point where the line of the thirty-first degree of north latitude intersects the Perdido River, thence east to the western boundary-line of the State of Georgia, thence along said line to the southern boundary-line to the State of Tennessee, thence west along said boundary-line to the Tennessee River, thence up the same to the mouth of Bear Creek, thence by a direct line to the

* The area of the State of Alabama was ceded to the United States by the States of Georgia and South Carolina, and by Spain. A strip of land twelve miles wide, across the northern part of the State, and adjoining the southern boundary of the State of Tennessee, ceded by the State of South Carolina, was a portion of the Territory South of the river Ohio, afterward transferred to the Mississippi Territory. The larger portion of the State, ceded by the State of Georgia, was a portion of the Mississippi Territory. The southwestern corner of the State, between the Perdido River and the State of Mississippi, and between the thirty-first parallel and the Gulf of Mexico, ceded by Spain, became a portion of the Mississippi Territory.

† This act was amended by an act approved April 20, 1818.

northwest corner of Washington County, thence due south to the Gulf of Mexico, thence eastwardly, including all the islands within six leagues of the shore, to the Perdido River, and thence up the same to the beginning; shall, for the purpose of a temporary government, constitute a separate Territory, and be called "Alabama."

SEC. 2. *And be it further enacted*, That all offices which may exist, and all laws which may be in force, in said Territory, within the boundaries above described, at the time this act shall go into effect, shall continue to exist, and be in force, until otherwise provided by law. And the President of the United States shall have power to appoint a governor and secretary for the said Alabama Territory, who shall, respectively, exercise the same power, perform the same duties, and receive for their services the same compensation, as are provided for the governor and secretary of the Mississippi Territory: *Provided*, That the appointment of said governor and secretary shall be submitted to the Senate, for their advice and consent, at the next session of Congress.

SEC. 3. *And be it further enacted*, That there shall be appointed an additional judge of the Mississippi Territory, who shall reside in the eastern part thereof, and receive the same compensation as the other judges; and that the judge appointed by virtue of an act, passed the twenty-seventh day of March, one thousand eight hundred and four, for the appointment of an additional judge for the Mississippi Territory, together with the judge appointed for Madison County, and the judge to be appointed by virtue of this act, shall possess and exercise exclusive original jurisdiction in the superior courts of Washington, Baldwin, Clarke, Monroe, Montgomery, Wayne, Greene, Jackson, Mobile, Madison, and of such new counties as may be formed out of them, and shall arrange the same among themselves, from time to time: *Provided*, That no judge shall sit more than twice in succession in the same court, and that the other judges of the Mississippi Territory shall exercise, as heretofore authorized by an act of Congress, or of the territorial legislature, exclusive jurisdiction in the superior courts of the other counties. That a general court, to be composed of the judge appointed by virtue of the act of twenty-seventh of March, one thousand eight hundred and four, the judge appointed for Madison County, and the judge to be appointed by virtue of this act, or any two of them, shall be holden at Saint Stephens, commencing on the first Mondays of January and July, annually, who shall have the same power of issuing writs of error to the superior courts of the counties mentioned in this section, or which shall hereafter be formed in the eastern division of the Territory, which was given by the act for the appointment of an additional judge, passed the year one thousand eight hundred and four, to the superior court of Adams district, and which shall possess, exclusively of the courts of the several counties, the Federal jurisdiction given to the superior courts of the Territories, by an act passed the third day of March, one thousand eight hundred and five, entitled "An act to extend jurisdiction in certain cases to the territorial courts."

SEC. 4. *And be it further enacted*, That the governor, to be appointed under the authority of this act, shall, immediately after entering into office, convene, at the town of Saint Stephens, such of the members of the legislative council and house of representatives of the Mississippi Territory, as may then be the representatives from the several counties within the limits of the Territory to be established by this act; and the said members shall constitute the legislative council and house of representatives for the aforesaid Alabama Territory, whose powers, in relation to the said Territory, shall be, until the expiration of the term for which they shall have been chosen, or until Congress shall otherwise provide, the same, in all respects, as are now possessed by the legislative council and house of representatives of the Mississippi Territory; and the said legislative council and house of representatives of the Alabama Territory, so formed, shall have power to nominate six persons to the President of the United States, three of whom shall be selected by him for members of the legislative council, in addition to the number which the said Territory may possess agreeably to the foregoing provisions of this section. The said legislative council and house of representatives shall also have power to elect a Delegate to Congress, who shall, in all respects, possess the same rights and immunities as other Delegates from Territories of the United States.

SEC. 5. *And be it further enacted*, That this act shall commence and be in force so

soon as the convention, the appointment whereof has been authorized by Congress at their present session, shall have formed a constitution and State government for that part of the Mississippi Territory lying west of the Territory herein described; of which act of convention the governor of the Mississippi, for the time being, shall give immediate notice to the President of the United States, who shall thereupon forthwith proceed to the execution of the powers vested in him by the second section of this act; but in case said convention shall fail to form a constitution and State government, as aforesaid, then this act shall become null and void, except so far as relates to the third section thereof, which shall take effect, and be in force, from and after the passage of this act.

SEC. 6. *And be it further enacted*, That all persons who shall be in office, within the Territory hereby established, when the said convention shall have formed a constitution and State government, as aforesaid, shall continue to hold and exercise their offices, in all respects, as if this act had never been made; and the governor and secretary of the Mississippi Territory, for the time being, shall continue to exercise the duties of their respective offices, in relation to the Territory hereby established, until a governor and secretary shall be appointed therefor, in pursuance to this act.

SEC. 7. *And be it further enacted*, That all judicial process in the said Territory of Alabama shall be issued, and bear teste, as heretofore; nor shall any suit be discontinued, or the proceedings of any cause stayed, or in any wise affected, by anything contained in this act, or in the act entitled "An act to enable the people of the western part of the Mississippi Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States."

SEC. 8. *And be it further enacted*, That the town of Saint Stephens shall be the seat of government for the said Alabama Territory, until it shall be otherwise ordered by the legislature thereof.

SEC. 9. *And be it further enacted*, That whatever balance may remain in the treasury of the Mississippi Territory, at the time when the convention authorized to form a constitution and State government for the western part of said Territory, may have formed a constitution and State government for the same, shall be divided between the new State and Territory, according to the amount which may have been paid into said treasury from the counties lying within the limits of such State and Territory respectively.

APPROVED, 3 March, 1817.

TREATY WITH SPAIN CEDING FLORIDA—1819.

[See "Florida," pages 308–312.]

ENABLING ACT FOR ALABAMA—1819.

[FIFTEENTH CONGRESS, SECOND SESSION.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the Territory of Alabama be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they may deem proper; and that the said Territory, when formed into a State, shall be admitted into the Union, upon the same footing with the original States, in all respects whatever.

SEC. 2. *And be it further enacted*, That the said State shall consist of all the territory included within the following boundaries, to wit: Beginning at the point where the thirty-first degree of north latitude intersects the Perdido River; thence, east, to the western boundary-line of the State of Georgia; thence, along said line, to the

southern boundary-line of the State of Tennessee; thence, west, along said boundary-line, to the Tennessee River; thence, up the same, to the mouth of Bear Creek; thence, by a direct line, to the northwest corner of Washington County; thence, due south, to the Gulf of Mexico; thence, eastwardly, including all islands within six leagues of the shore, to the Perdido River; and thence, up the same, to the beginning.

SEC. 3. *And be it further enacted*, That it shall be the duty of the surveyor of the lands of the United States south of the State of Tennessee, and the surveyor of the public lands in the Alabama Territory, to run and cut out the line of demarcation, between the State of Mississippi and the State to be formed of the Alabama Territory; and if it should appear to said surveyors that so much of said line designated in the preceding section, running due south, from the northwest corner of Washington County to the Gulf of Mexico, will encroach on the counties of Wayne, Greene, or Jackson, in said State of Mississippi, then the same shall be so altered as to run in a direct line from the northwest corner of Washington County to a point on the Gulf of Mexico, ten miles east of the mouth of the river Pascagoula.

SEC. 4. *And be it further enacted*, That all white male citizens of the United States, who shall have arrived at the age of twenty-one years, and have resided in said Territory three months previous to the day of election, and all persons having, in other respects, the legal qualifications to vote for representatives in the general assembly of the said Territory, be, and they are hereby, authorized to choose representatives to form a constitution, who shall be appointed among the several counties as follows:

From the county of Madison, eight representatives.
From the county of Monroe, four representatives.
From the county of Blount, three representatives.
From the county of Limestone, three representatives.
From the county of Shelby, two representatives.
From the county of Montgomery, two representatives.
From the county of Washington, two representatives.
From the county of Tuscaloosa, two representatives.
From the county of Lawrence, two representatives.
From the county of Franklin, two representatives.
From the county of Cotaco, two representatives.
From the county of Clarke, two representatives.
From the county of Baldwin, one representative.
From the county of Cahawba, one representative.
From the county of Conecuh, one representative.
From the county of Dallas, one representative.
From the county of Marengo, one representative.
From the county of Marion, one representative.
From the county of Mobile, one representative.
From the county of Lauderdale, one representative.
From the county of Saint Clair, one representative.
From the county of Autauga, one representative.

And the election for the representatives aforesaid shall be holden on the first Monday and Tuesday in May next, throughout the several counties in the said Territory, and shall be conducted in the same manner, and under the same regulations, as prescribed by the laws of the said Territory regulating elections therein for the members of the House of Representatives.

SEC. 5. *And be it further enacted*, That the members of the convention, thus duly elected, be, and they are hereby, authorized to meet, at the town of Huntsville, on the first Monday in July next; which convention, when met, shall first determine, by a majority of the whole number elected, whether it be, or be not, expedient, at that time, to form a constitution and State government for the people within the said Territory: And if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and State government: *Provided*, That the same, when formed, shall be republican, and not repugnant to the principles of the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven,

between the people and States of the territory northwest of the river Ohio, so far as the same has been extended to the said territory, by the articles of agreement between the United States and the State of Georgia, or of the Constitution of the United States.

SEC. 6. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the said Territory of Alabama, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States.

First. That the section numbered sixteen in every township, and when such section has been sold, granted, or disposed of, other lands equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such townships for the use of schools.

Second. That all salt-springs within the said Territory, and the lands reserved for the use of the same, together with such other lands as may, by the President of the United States, be deemed necessary and proper for working the said salt-springs, not exceeding in the whole the quantity contained in thirty-six entire sections, shall be granted to the said State, for the use of the people of the said State, the same to be used, under such terms, conditions, and regulations, as the legislature of the said State shall direct: *Provided*, The said legislature shall never sell nor lease the same for a longer term than ten years at any one time.

Third. That five per cent. of the net proceeds of the lands lying within the said Territory, and which shall be sold by Congress, from and after the first day of September, in the year one thousand eight hundred and nineteen, after deducting all expenses incident to the same, shall be reserved for making public roads, canals, and improving the navigation of rivers, of which three-fifths shall be applied to those objects within the said State, under the direction of the legislature thereof, and two-fifths to the making of a road or roads leading to the said State, under the direction of Congress.

Fourth. That thirty-six sections, or one entire township, to be designated by the Secretary of the Treasury, under the direction of the President of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of the said State, to be appropriated solely to the use of such seminary by the said legislature. And the Secretary of the Treasury, under the direction as aforesaid, may reserve the seventy-two sections, or two townships, hereby set apart for the support of a seminary of learning, in small tracts: *Provided*, That no tract shall consist of less than two sections: *And provided always*, That the said convention shall provide, by an ordinance irrevocable without the consent of the United States, that the people inhabiting the said Territory, do agree and declare that they forever disclaim all right and title to the waste or unappropriated lands lying within the said Territory; and that the same shall be and remain at the sole and entire disposition of the United States; and, moreover, that each and every tract of land sold by the United States, after the first day of September, in the year one thousand eight hundred and nineteen, shall be and remain exempt from any tax laid by the order, or under the authority, of the State, whether for State, county, township, parish, or any other purpose whatever, for the term of five years, from and after the respective days of the sales thereof: and that the lands belonging to citizens of the United States, residing without the said State, shall never be taxed higher than the lands belonging to persons residing therein; and that no tax shall be imposed on lands, the property of the United States; and that all navigable waters within the said State shall forever remain public highways, free to the citizens of said State and of the United States, without any tax, duty, impost, or toll, therefor, imposed by the said State.

SEC. 7. *And be it further enacted*, That, in lieu of a section of land, provided to be reserved for the seat of government of the said Territory, by an act, entitled "An act respecting the surveying and sale of the public lands in the Alabama Territory," there be granted to the said State, for the seat of the government thereof, a tract of land containing sixteen hundred and twenty acres, and consisting of sundry fractions and a quarter-section, in sections thirty-one and thirty-two, in township sixteen, and range

ten, and in sections five and six, in township fifteen, and range ten, and in sections twenty-nine and thirty, in the same township and range, lying on both sides of the Alabama and Cahawba Rivers, and including the mouth of the river Cahawba, and which heretofore has been reserved from public sale, by order of the President of the United States.

SEC. 8. *And be it further enacted*, That, until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 9. *And be it further enacted*, That, in case the said convention shall form a constitution and State government for the people of the Territory of Alabama, the said convention, as soon thereafter as may be, shall cause a true and attested copy of such constitution or frame of government as shall be formed or provided, to be transmitted to Congress, for its approbation.

APPROVED, 2 March, 1819.

CONSTITUTION OF ALABAMA—1819.

We, the people of the Alabama Territory, having the right of admission into the General Government, as a member of the Union, consistent with the Constitution and laws of the United States, by our representatives, assembled in convention at the town of Huntsville, on Monday, the fifth day of July, one thousand eight hundred and nineteen, in pursuance of an act of Congress, entitled "An act to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States;" in order to establish justice, insure tranquillity, provide for the common defence, promote the general welfare, and secure to ourselves and our posterity the rights of life, liberty, and property, do ordain and establish the following constitution or form of government; and do mutually agree with each other to form ourselves into a free and independent State, by the name of "the State of Alabama." And we do hereby recognize, confirm, and establish the boundaries assigned to said State by the act of Congress aforesaid, "to wit: Beginning at the point where the thirty-first degree of north latitude intersects the Perdido River, thence, east, to the western boundary-line of the State of Georgia; thence, along said line, to the southern boundary-line of the State of Tennessee; thence, west, along said boundary-line, to the Tennessee River; thence, up the same, to the mouth of Bear Creek; thence, by a direct line, to the northwest corner of Washington County; thence, due south, to the Gulf of Mexico; thence, eastwardly, including all islands within six leagues of the shore, to the Perdido River; and thence, up the same, to the beginning"—subject to such alteration as is provided in the third section of said act of Congress, and subject to such enlargement as may be made by law, in consequence of any cession of territory by the United States, or either of them.

ARTICLE I.

DECLARATION OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare:

SECTION 1. That all freemen, when they form a social compact, are equal in rights; and that no man or set of men are entitled to exclusive, separate public emoluments or privileges, but in consideration of public services.

SEC. 2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit: and, therefore, they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government, in such manner as they may think expedient.

SEC. 3. No person within this State shall, upon any pretence, be deprived of the inestimable privilege of worshipping God in the manner most agreeable to his own conscience; nor be compelled to attend any place of worship; nor shall any one ever be obliged to pay any tithes, taxes, or other rate, for the building or repairing any place of worship, or for the maintenance of any minister or ministry.

SEC. 4. No human authority ought, in any case whatever, to control or interfere with the rights of conscience.

SEC. 5. No person shall be hurt, molested, or restrained in his religious profession, sentiments, or persuasions, provided he does not disturb others in their religious worship.

SEC. 6. The civil rights, privileges, or capacities of any citizen, shall in no way be diminished or enlarged, on account of his religious principles.

SEC. 7. There shall be no establishment of religion by law; no preference shall ever be given by law to any religious sect, society, denomination, or mode of worship; and no religious test shall ever be required as a qualification to any office or public trust under this State.

SEC. 8. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

SEC. 9. The people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures or searches; and no warrant to search any place, or to seize any person or thing, shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 10. In all criminal prosecutions, the accused has a right to be heard by himself and counsel; to demand the nature and cause of the accusation, and have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and, in all prosecutions, by indictment or information, a speedy public trial by an impartial jury of the county or district in which the offence shall have been committed; he shall not be compelled to give evidence against himself, nor shall he be deprived of his life, liberty, or property, but by due course of law.

SEC. 11. No person shall be accused, arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and no person shall be punished, but in virtue of a law, established and promulgated prior to the offence, and legally applied.

SEC. 12. No person shall, for any indictable offence, be proceeded against criminally, by information; except in cases arising in the land and naval forces, or the militia when in actual service, or, by leave of the court, for oppression or misdemeanor in office.

SEC. 13. No person shall, for the same offence, be twice put in jeopardy of life or limb; nor shall any person's property be taken or applied to public use, unless just compensation be made therefor.

SEC. 14. All courts shall be open, and every person, for an injury done him, in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered, without sale, denial, or delay.

SEC. 15. No power of suspending laws shall be exercised, except by the general assembly, or its authority.

SEC. 16. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 17. All persons shall, before conviction, be bailable by sufficient securities, except for capital offences, when the proof is evident, or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SEC. 18. The person of a debtor, when there is not strong presumption of fraud, shall not be detained in prison, after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

SEC. 19. No *ex post facto* law, nor law impairing the obligation of contracts shall be made.

SEC. 20. No person shall be attainted of treason or felony by the general assembly. No attainder shall work corruption of blood, nor forfeiture of estate.

SEC. 21. The estates of suicides shall descend or vest as in cases of natural death; if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

SEC. 22. The citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

SEC. 23. Every citizen has a right to bear arms in defence of himself and the State.

SEC. 24. No standing army shall be kept up without the consent of the general assembly; and, in that case, no appropriation of money for its support shall be for a longer term than one year; and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

SEC. 25. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

SEC. 26. No title of nobility, or hereditary distinction, privilege, honor, or emolument, shall ever be granted or conferred in this State; nor shall any office be created, the appointment of which shall be for a longer term than during good behavior.

SEC. 27. Emigration from this State shall not be prohibited, nor shall any citizen be exiled.

SEC. 28. The right of trial by jury shall remain inviolate.

SEC. 29. No person shall be debarred from prosecuting or defending any civil cause, for or against him or herself, before any tribunal in this State, by him or herself, or counsel.

SEC. 30. This enumeration of certain rights shall not be construed to deny or disparage others retained by the people; and to guard against any encroachments on the rights herein retained, or any transgression of any of the high powers herein delegated, we declare, that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or to the following provisions, shall remain void.

ARTICLE II.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government of the State of Alabama shall be divided into three distinct departments; and each of them confided to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

SEC. 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in two distinct branches: the one to be styled the senate, the other the house of representatives, and both together "the general assembly of the State of Alabama;" and the style of their laws shall be, "*Be it enacted by the senate and house of representatives of the State of Alabama, in general assembly convened.*"

SEC. 2.* The members of the house of representatives shall be chosen by the qualified electors, and shall serve for the term of [one year] from the day of the commencement of the general election, and no longer.

SEC. 3.* The representatives shall be chosen [every year] on the first Monday and the day following in August, until otherwise directed by law.

* This section was amended in 1846. See page 47.

SEC. 4. No person shall be a representative, unless he be a white man, a citizen of the United States, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a resident of the county, city, or town, for which he shall be chosen, and shall have attained the age of twenty-one years.

SEC. 5. Every white male person of the age of twenty-one years, or upward, who shall be a citizen of the United States, and shall have resided in this State one year next preceding an election, and the last three months within the county, city, or town, in which he offers to vote, shall be deemed a qualified elector: *Provided*, That no soldier, seaman, or marine, in the regular Army or Navy of the United States, shall be entitled to vote at any election in this State; *And provided, also*, That no elector shall be entitled to vote except in the county, city, or town (entitled to separate representation) in which he may reside at the time of the election.

SEC. 6. Electors shall, in all cases except in those of treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

SEC. 7. In all elections by the people, the electors shall vote by ballot, until the general assembly shall otherwise direct.

SEC. 8. Elections for representatives for the several counties shall be held at the place of holding their respective courts, and at such other places as may be prescribed by law: *Provided*, That when it shall appear to the general assembly that any city or town shall have a number of white inhabitants equal to the ratio then fixed, such city or town shall have a separate representation, according to the number of white inhabitants therein; which shall be retained so long as such city or town shall contain a number of white inhabitants equal to the ratio which may from time to time be fixed by law; and thereafter, and during the existence of the right of separate representation, in such city or town, elections for the county in which such city or town (entitled to such separate representation) is situated, shall not be held in such city or town; but it is understood, and hereby declared, that no city or town shall be entitled to separate representation, unless the number of white inhabitants in the county in which such city or town is situated, residing out of the limits of said city or town, be equal to the existing ratio; or unless the residuum or fraction of such city or town shall, when added to the white inhabitants of the county residing out of the limits of said city or town, be equal to the ratio fixed by law for one representative: *And provided*, That if the residuum or fraction of any city or town, entitled to separate representation, shall, when added to the residuum of the county in which it may lie, be equal to the ratio fixed by law for one representative, then the aforesaid county, city, or town, having the largest residuum, shall be entitled to such representation: *And provided, also*, That when there are two or more counties adjoining, which have residuums or fractions over and above the ratio then fixed by law, if said residuums or fractions, when added together, will amount to such ratio, in that case one representative shall be added to that county having the largest residuum.

[SEC. 9.* The general assembly shall, at their first meeting, and in the years one thousand eight hundred and twenty, one thousand eight hundred and twenty-three, one thousand eight hundred and twenty-six, and every six years thereafter, cause an enumeration to be made of all the inhabitants of the State, and the whole number of the representatives shall, at the first session held after making every such enumeration, be fixed by the general assembly, and apportioned among the several counties, cities, or towns, entitled to separate representation, according to their respective numbers of white inhabitants; and the said apportionment, when made, shall not be subject to alteration, until after the next census shall be taken. The house of representatives shall not consist of less than forty-four, nor more than sixty members, until the number of white inhabitants shall be one hundred thousand; and after that event, the whole number of representatives shall never be less than sixty, nor more than one hundred: *Provided, however*, That each county shall be entitled to at least one representative.]

* This section was amended in 1850. See page 47.

SEC. 10. The general assembly shall, at the first session after making every such enumeration, fix by law the whole number of senators, and shall divide the State into the same number of districts, as nearly equal, in the number of white inhabitants, as may be, each of which districts shall be entitled to one senator and no more: *Provided*, That the whole number of senators shall never be less than one-fourth, nor more than one-third, of the whole number of representatives.

SEC. 11. When a senatorial district shall be composed of two or more counties, the counties of which such district consists, shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a district.

SEC. 12. Senators shall be chosen by the qualified electors, for the term of three years, at the same time, in the same manner, and at the same places, where they may vote for members of the house of representatives; and no person shall be a senator, unless he be a white man, a citizen of the United States, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained to the age of twenty-seven years.

[SEC. 13.* The senators chosen according to the apportionment under the census ordered to be taken in one thousand eight hundred and twenty-six, when convened, shall be divided by lot into three classes, as nearly equal as may be. The seats of the senators of the first class shall be vacated at the expiration of the first year, those of the second class at the expiration of the second year, and those of the third class at the expiration of the third year, so that one-third may be annually chosen thereafter, and a rotation thereby kept up perpetually. Such mode of classifying new additional senators shall be observed as will, as nearly as possible, preserve an equality of members in each class.]

SEC. 14. The house of representatives, when assembled, shall choose a speaker, and its other officers; and the senate shall, annually, choose a president, and its other officers; each house shall judge of the qualifications, elections, and returns, of its own members: but a contested election shall be determined in such manner as shall be directed by law.

SEC. 15. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

SEC. 16. Each house may determine the rules of its own proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member; but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 17. Each house, during the session, may punish, by imprisonment, any person, not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings: *Provided*, That such imprisonment shall not, at any time, exceed forty-eight hours.

SEC. 18. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as, in its judgment, may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals. Any member of either house shall have liberty to dissent from, or protest against, any act or resolution which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journals.

SEC. 19. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest, during the session of the general assembly, and in going to and returning from the same; allowing one day for every twenty miles such member may reside from the place at which the general assembly is convened; nor shall any member be liable to answer for anything spoken in debate in either house, in any court or place elsewhere.

SEC. 20. When vacancies happen in either house, the governor, or the person exercising the powers of the governor, shall issue writs of election to fill such vacancies.

SEC. 21. The doors of each house shall be open, except on such occasions, as, in the opinion of the house, may require secrecy.

* This section was amended in 1846 and again in 1850. See page 47.

SEC. 22. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 23. Bills may originate in either house, and be amended, altered, or rejected, by the other; but no bill shall have the force of a law, until on three several days it be read in each house, and free discussion be allowed thereon, unless, in case of urgency, four-fifths of the house in which the bill shall be depending may deem it expedient to dispense with this rule: and every bill, having passed both houses, shall be signed by the speaker and president of their respective houses: *Provided*, That all bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them, as other bills.

SEC. 24. Each member of the general assembly shall receive from the public treasury such compensation for his services as may be fixed by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

SEC. 25. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people.

SEC. 26. No person holding any lucrative office under the United States (the office of postmaster excepted), this State, or any other power, shall be eligible to the general assembly: *Provided*, That the offices in the militia to which there is attached no annual salary, or the office of justice of the peace, or that of the quorum, or county court, while it has no salary, shall not be deemed lucrative.

SEC. 27. No person, who may hereafter be a collector or holder of public moneys, shall have a seat in either house of the general assembly, or be eligible to any office of trust or profit under this State, until he shall have accounted for, and paid into the treasury, all sums for which he may be accountable.

SEC. 28. The first election for senators and representatives shall be general throughout the State; and shall be held on the third Monday and Tuesday in September next.

[SEC. 29.* The first session of the general assembly shall commence on the fourth Monday in October next, and be held at the town of Huntsville, and all subsequent sessions at the town of Cahawba, until the end of the first session of the general assembly to be held in the year one thousand eight hundred and twenty-five; during that session the general assembly shall have power to designate by law (to which the executive concurrence shall not be required) the permanent seat of government, which shall not thereafter be changed: *Provided, however*, That unless such designation be then made by law, the government shall continue permanently at the town of Cahawba; *And provided also*, That the general assembly shall make no appropriations, previous to the year one thousand eight hundred and twenty-five, for the building of any other State-house than that now provided for by law.]

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of Alabama.

SEC. 2. The governor shall be elected by the qualified electors at the time and places when they shall respectively vote for representatives.

SEC. 3. The returns of every election for governor shall be sealed up, and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall, during the first week of the session, open and publish them in the presence of both houses of the general assembly. The person having the highest number of votes shall be governor, but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of both houses. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

* This section was amended in 1846. See page 47.

SEC. 4. The governor shall hold his office for the term of two years from the time of his installation, and until his successor shall be duly qualified, but shall not be eligible for more than four years in any term of six years; he shall be at least thirty years of age, shall be a native citizen of the United States, and shall have resided in this State at least four years next preceding the day of his election.

SEC. 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected.

SEC. 6. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof, except when they shall be called into the service of the United States. And when acting in the service of the United States, the general assembly shall fix his rank.

SEC. 7. He may require information in writing from the officers of the executive department, on any subject relating to the duties of their respective offices.

SEC. 8.* He may, by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy, or from contagious disorders; in case of disagreement between the two houses, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next [annual] meeting of the general assembly.

SEC. 9. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law. In cases of treason he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons; and he may, in the recess of the senate, respite the sentence until the end of the next session of the general assembly.

SEC. 12. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and the present seal of the Territory shall be the seal of the State, until otherwise directed by the general assembly.

SEC. 13. All commissions shall be in the name and by the authority of the State of Alabama, be sealed with the State seal, signed by the governor, and attested by the secretary of state.

SEC. 14. There shall be a secretary of state, appointed by joint vote of both houses of the general assembly, who shall continue in office during the term of two years. He shall keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the general assembly; and shall perform such other duties as may be required of him by law.

SEC. 15. Vacancies that may happen in offices, the appointment to which is vested in the general assembly, shall be filled by the governor, during the recess of the general assembly, by granting commissions which shall expire at the end of the next session.

SEC. 16. Every bill which shall have passed both houses of the general assembly, shall be presented to the governor: If he approve, he shall sign it, but if not, he shall return it with his objections, to the house in which it shall have originated, who shall enter the objections at large upon the journals, and proceed to reconsider it; if, after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by a majority of the whole number elected to that house, it shall become a law: but in such cases, the votes of both houses shall be determined by yeas and nays; and the names of the members voting for or against the bill shall be entered on the journals of each house respectively: if any bill shall not be returned by the governor within five days, Sundays excepted, after it shall have have been presented to him, the same shall be a law, in like

* This section was amended in 1846. See page 47.

manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which case it shall not be a law.

SEC. 17. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on questions of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him, or being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the cases of a bill.

SEC. 18. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the president of the senate shall exercise all the power and authority appertaining to the office of governor, until the time pointed out by this constitution for the election of governor shall arrive, unless the general assembly shall provide by law for the election of a governor to fill such vacancy, or until the governor absent or impeached shall return or be acquitted.

SEC. 19. If, during the vacancy of the office of governor, the president of the senate shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the speaker of the house of representatives shall, in like manner, administer the government.

SEC. 20. The president of the senate and speaker of the house of representatives, during the time they respectively administer the government, shall receive the same compensation which the governor would have received, had he been employed in the duties of his office.

SEC. 21. The governor shall always reside, during the session of the general assembly, at the place where their session may be held, and at all other times, wherever, in their opinion, the public good may require.

SEC. 22. No person shall hold the office of governor, and any other office or commission, civil or military, either in this State, or under any State, or the United States, or any other power, at one and the same time.

SEC. 23. A State treasurer and a comptroller of public accounts shall be annually elected, by a joint vote of both houses of the general assembly.

SEC. 24. A sheriff shall be elected in each county by the qualified electors thereof, who shall hold his office for the term of three years, unless sooner removed, and who shall not be eligible to serve either as principal or deputy for the three succeeding years. Should a vacancy occur subsequent to an election, it shall be filled by the governor, as in other cases, and the person so appointed shall continue in office until the next general election, when such vacancy shall be filled by the qualified electors, and the sheriff then elected shall continue in office three years.

MILITIA.

SECTION 1. The general assembly shall provide by law for organizing and disciplining the militia of this State, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States in relation thereto.

SEC. 2. Any person, who conscientiously scruples to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC. 3. The governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and to repel invasions.

SEC. 4. All officers of the militia shall be elected or appointed in such manner as may be prescribed by law: *Provided*, That the general assembly shall not make any such elections or appointments, other than those of adjutants-general, and quartermasters-general.

SEC. 5. The governor shall appoint his aides-de-camp; major-generals, their aides-de-camp, and all other division and staff-officers; brigadier-generals shall appoint their aides, and all other brigade staff-officers; and colonels shall appoint their regimental staff-officers.

SEC. 6. The general assembly shall fix by law the method of dividing the militia into brigades, regiments, battalions, and companies, and shall fix the rank of all staff-officers.



ARTICLE V.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in one supreme court, circuit courts to be held in each county in the State, and such inferior courts of law and equity, to consist of not more than five members, as the general assembly may, from time to time, direct, ordain and establish.

SEC. 2. The supreme court, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may, from time to time, be prescribed by law: *Provided*, That the supreme court shall have power to issue writs of injunction, *mandamus*, *quo warranto*, *habeas corpus*, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdictions.

SEC. 3. Until the general assembly shall otherwise prescribe, the powers of the supreme court shall be vested in, and its duties shall be performed by, the judges of the several circuit courts within this State; and they, or a majority of them, shall hold such sessions of the supreme court, and at such times as may be directed by law: *Provided*, That no judge of the supreme court shall be appointed before the commencement of the first session of the general assembly, which shall be begun and held after the first day of January, in the year one thousand eight hundred and twenty-five.

SEC. 4. The supreme court shall be holden at the seat of government, but may adjourn to a different place, if that shall have become dangerous from an enemy or from disease.

SEC. 5. The State shall be divided into convenient circuits, and each circuit shall contain not less than three, nor more than six counties; and for each circuit there shall be appointed a judge, who shall, after his appointment, reside in the circuit for which he may be appointed.

SEC. 6. The circuit court shall have original jurisdiction in all matters, civil and criminal, within this State, not otherwise excepted in this constitution; but in civil cases, only when the matter or sum in controversy exceeds fifty dollars.

SEC. 7. A circuit court shall be held in each county in the State, at least twice in every year, and the judges of the several circuit courts may hold courts for each other, when they may deem it expedient, and shall do so when directed by law.

SEC. 8. The general assembly shall have power to establish a court or courts of chancery, with original and appellate equity jurisdiction; and until the establishment of such court or courts, the said jurisdiction shall be vested in the judges of the circuit courts respectively: *Provided*, That the judges of the several circuit courts shall have power to issue writs of injunction, returnable into the courts of chancery.

SEC. 9. The general assembly shall have power to establish, in each county within this State, a court of probate, for the granting of letters testamentary and of administration, and for orphans' business.

SEC. 10. A competent number of justices of the peace shall be appointed in and for each county, in such mode and for such term of office as the general assembly may direct. Their jurisdiction in civil cases shall be limited to causes in which the amount in controversy shall not exceed fifty dollars. And in all cases, tried by a justice of the peace, right of appeal shall be secured, under such rules and regulations as may be prescribed by law.

SEC. 11. Judges of the supreme and circuit courts, and courts of chancery, shall, at stated times, receive for their services a compensation, which shall be fixed by law, and shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under this State, the United States, or any other power.

SEC. 12.* Chancellors, judges of the supreme court, [judges of the circuit courts, and judges of the inferior courts,] shall be elected by joint vote of both houses of the general assembly.

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* This section was amended in 1850. See page 47.

[SEC. 13.* The judges of the several courts in this State shall hold their offices during good behavior; and for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of two-thirds of each house of the general assembly; *Provided, however*, That the cause or causes for which such removal shall be required, shall be stated at length in such address, and entered on the journals of each house: *And provided further*, That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defence, before any vote for such address shall pass; and in all such cases the vote shall be taken by yeas and nays, and entered on the journals of each house respectively; *And provided, also*, That the judges of the several circuit courts, who shall be appointed before the commencement of the first session of the general assembly, which shall be begun and held after the first day of January, in the year of our Lord one thousand eight hundred and twenty-five, shall only hold their offices during good behavior, until the end of the said session, at which time their commissions shall expire.]

SEC. 14. No person who shall have arrived at the age of seventy years shall be appointed to, or continue in, the office of judge in this State.

SEC. 15. Clerks of the circuit and inferior courts in this State shall be elected by the qualfied electors in each county, for the term of four years, and may be removed from office for such causes and in such manner as may be prescribed by law; and should a vacancy occur, subsequent to an election, it shall be filled by the judge or judges of the courts in which such vacancy exists; and the person so appointed shall hold his office until the next general election; *Provided, however*, That after the year one thousand eight hundred and twenty-six, the general assembly may prescribe a different mode of appointment, but shall not make such appointment.

SEC. 16. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the State; as also the judges of the circuit courts in their respective districts, and judges of the inferior courts in their respective counties.

SEC. 17. The style of all process shall be "*The State of Alabama*," and all prosecutions shall be carried on in the name and by the authority of the State of Alabama, and shall conclude "against the peace and dignity of the same."

SEC. 18. There shall be an attorney-general for the State, and as many solicitors as the general assembly may deem necessary, to be elected by a joint vote thereof, who shall hold their offices for the term of four years, and shall receive for their services a compensation, which shall not be diminished during their continuance in office.

IMPEACHMENTS.

SECTION 1. The house of representatives shall have the sole power of impeaching.

SEC. 2. All impeachments shall be tried by the senate: when sitting for that purpose, the senators shall be on oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 3. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than removal from office, and to disqualification to hold any office of honor, trust, or profit, under the State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment, according to law.

ARTICLE VI.

GENERAL PROVISIONS.

SECTION 1. The members of the general assembly, and all officers, executive and judicial, before they enter on the execution of their respective offices, shall take the following oath or affirmation, to wit: "I solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States, and the constitution of the State of

* This section was amended in 1830. See page 46.

Alabama, so long as I continue a citizen thereof, and that I will faithfully discharge, to the best of my abilities, the duties of ——, according to law: So help me God.

SEC. 2. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and confort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 3. The general assembly shall have power to pass such penal laws to suppress the evil practice of duelling, extending to disqualification from office or the tenure thereof, as they may deem expedient.

SEC. 4. Every person shall be disqualified from holding any office or place of honor or profit, under the authority of the State, who shall be convicted of having given or offered any bribe to procure his election or appointment.

SEC. 5. Laws shall be made to exclude from office, from suffrage, and from serving as jurors, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper conduct.

SEC. 6. In all elections by the general assembly, the members thereof shall vote *viva voce*, and the votes shall be entered on the journals.

SEC. 7. No money shall be drawn from the treasury, but in consequence of an appropriation made by law; and a regular statement and account of the receipts and expenditures of all public moneys shall be published annually.

SEC. 8. All lands liable to taxation in this State, shall be taxed in proportion to their value.

SEC. 9. The general assembly shall direct, by law, in what manner, and in what courts, suits may be brought against the State.

SEC. 10. It shall be the duty of the general assembly to regulate, by law, the cases in which deductions shall be made from the salaries of public officers, for neglect of duty in their official capacities, and the amount of such deduction.

SEC. 11. Absence on business of this State, or of the United States, or on a visit, or necessary private business, shall not cause a forfeiture of a residence once obtained.

SEC. 12. No member of Congress, nor any person holding any office of profit or trust under the United States, (the office of postmaster excepted,) or either of them, or any foreign power, shall hold or exercise any office of profit under this State.

SEC. 13. Divorces from the bonds of matrimony shall not be granted but in cases provided for by law, by suit in chancery; and no decree for such divorce shall have effect, until the same shall be sanctioned by two-thirds of both houses of the general assembly.

SEC. 14. In prosecutions for the publishing of papers investigating the official conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the courts.

SEC. 15. Returns of all elections for officers, who are to be commissioned by the governor, and for members of the general assembly, shall be made to the secretary of state.

SEC. 16. No new county shall be established by the general assembly, which shall reduce the county or counties, or either of them, from which it shall be taken, to a less content than nine hundred square miles; nor shall any county be laid off of less contents. Every new county, as to the right of suffrage and representation, shall be considered as a part of the county or counties from which it was taken, until entitled by numbers to the right of separate representation.

SEC. 17. The general assembly shall, at their first session, which may be holden in the year eighteen hundred and twenty-eight, or at the next succeeding session, arrange and designate boundaries for the several counties within the limits of this State to which the Indian title shall have been extinguished, in such manner as they may deem expedient, which boundaries shall not be afterward altered, unless by the agreement of two-thirds of both branches of the general assembly; and in all cases of ceded terri-

tory acquired by the State, the general assembly may make such arrangements and designations of the boundaries of counties within such ceded territory, as they may deem expedient, which only shall be altered in like manner: *Provided*, That no county, hereafter to be formed, shall be of less extent than nine hundred square miles.

SEC. 18. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties, who may choose that summary mode of adjustment.

SEC. 19. It shall be the duty of the general assembly, as soon as circumstances will permit, to form a penal code, founded on principles of reformation, and not of vindictive justice.

SEC. 20. Within five years after the adoption of this constitution, the body of our laws, civil and criminal, shall be revised, digested, and arranged, under proper heads, and promulgated in such manner as the general assembly may direct; and a like revision, digest, and promulgation, shall be made within every subsequent period of ten years.

SEC. 21. The general assembly shall make provisions by law for obtaining correct knowledge of the several objects proper for improvement in relation to the navigable waters, and to the roads in this State, and for making a systematic and economical application of the means appropriated to those objects.

SEC. 22. In the event of the annexation of any foreign territory to this State, by a cession from the United States, laws may be passed, extending to the inhabitants of such territory all the rights and privileges which may be required by the terms of such cession; anything in this constitution to the contrary notwithstanding.

EDUCATION.

Schools, and the means of education, shall forever be encouraged in this State; and the general assembly shall take measures to preserve, from unnecessary waste or damage, such lands as are or hereafter may be granted by the United States for the use of schools within each township in this State, and apply the funds, which may be raised from such lands, in strict conformity to the object of such grant. The general assembly shall take like measures for the improvement of such lands as have been or may be hereafter granted by the United States to this State, for the support of a seminary of learning, and the moneys which may be raised from such lands, by rent, lease, or sale, or from any other quarter, for the purpose aforesaid, shall be and remain a fund for the exclusive support of a State university, for the promotion of the arts, literature and the sciences; and it shall be the duty of the general assembly, as early as may be, to provide effectual means for the improvement and permanent security of the funds and endowments of such institution.

ESTABLISHMENT OF BANKS.

SECTION 1. One State bank may be established, with such number of branches as the general assembly may, from time to time, deem expedient: *Provided*, That no branch bank shall be established, nor bank charter renewed, under the authority of this State, without the concurrence of two-thirds of both houses of the general assembly; *And provided, also*, That not more than one bank nor branch bank shall be established, nor bank charter renewed, at any one session of the general assembly, nor shall any bank or branch bank be established, or bank charter renewed, but in conformity with the following rules:

1. At least two-fifths of the capital stock shall be reserved for the State.
2. A proportion of power in the direction of the bank shall be reserved to the State equal at least to its proportion of stock therein.
3. The State, and the individual stockholders, shall be liable, respectively, for the debts of the bank, in proportion to their stock holden therein.
4. The remedy for collecting debts shall be reciprocal, for and against the bank.
5. No bank shall commence operations, until half of the capital stock subscribed

for be actually paid in gold or silver, which amount shall, in no case, be less than one hundred thousand dollars.

6. In case any bank or branch bank shall neglect or refuse to pay, on demand, any bill, note, or obligation, issued by the corporation according to the promise therein expressed, the holder of any such note, bill, or obligation, shall be entitled to receive and recover interest thereon, until the same shall be paid, or specie payments are resumed, by said bank, at the rate of twelve per cent. per annum from the date of such demand, unless the general assembly shall sanction such suspension of specie payments, and the general assembly shall have power, after such neglect or refusal, to adopt such measures as they may deem proper, to protect and secure the rights of all concerned, and to declare the charter of such bank forfeited.

7. After the establishment of a general State bank, the banks of this State now existing may be admitted as branches thereof, upon such terms as the legislature and the said banks may agree, subject, nevertheless, to the preceding rules.

SLAVES.

SECTION 1. The general assembly shall have no power to pass laws for the emancipation of slaves, without the consent of their owners, or without paying their owners, previous to such emancipation, a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to this State from bringing with them such persons as are deemed slaves by the laws of any one of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State: *Provided*, That such person or slave be the *bona-fide* property of such emigrants: *And provided, also*, That laws may be passed to prohibit the introduction into this State of slaves who have committed high crimes in other States or Territories. They shall have power to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have full power to prevent slaves from being brought into this State as merchandise, and also to oblige the owners of slaves to treat them with humanity, to provide for them necessary food and clothing, to abstain from all injuries to them extending to life or limb, and, in case of their neglect, or refusal to comply with the directions of such laws, to have such slave or slaves sold for the benefit of the owner or owners.

SEC. 2. In the prosecution of slaves for crimes, of higher grade than petit larceny, the general assembly shall have no power to deprive them of an impartial trial by a petit jury.

SEC. 3. Any person who shall maliciously dismember or deprive a slave of life, shall suffer such punishment as would be inflicted in case the like offence had been committed on a free white person, and on the like proof; except in case of insurrection of such slave.

MODE OF AMENDING AND REVISING THE CONSTITUTION.

The general assembly, whenever two-thirds of each house shall deem it necessary, may propose amendments to this constitution, which proposed amendments shall be duly published in print, at least three months before the next general election of representatives, for the consideration of the people, and it shall be the duty of the several returning officers, at the next general election which shall be held for representatives, to open a poll for, and make a return to the secretary of state for the time being, of the names of all those voting for representatives, who have voted on such proposed amendments, and if thereupon it shall appear that a majority of all the citizens of this State, voting for representatives, have voted in favor of such proposed amendments, and two-thirds of each house of the next general assembly, shall, after such an election, and before another, ratify the same amendments by yeas and nays, they shall be valid, to all intents and purposes, as parts of this constitution: *Provided*, That the said proposed amendments shall, at each of the said sessions, have been read three times, on three several days, in each house.

SCHEDULE.

SECTION 1. That no inconvenience may arise from a change of territorial to a permanent State government, it is declared that all rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies corporate, shall continue as if no such change had taken place: and all process, which shall, before the third Monday in September next, be issued in the name of the Alabama Territory, shall be as valid as if issued in the name of the State.

SEC. 2. All fines, penalties, forfeitures, and escheats, accruing to the Alabama Territory, shall accrue to the use of the State.

SEC. 3. The validity of all bonds and recognizances executed to the governor of the Alabama Territory, shall not be impaired by the change of government, but may be sued for and recovered in the name of the governor of the State of Alabama and his successors in office; and all criminal or penal actions, arising or now depending within the limits of this State, shall be prosecuted to judgment and execution in the name of said State, all causes of action arising to individuals, and all suits at law or in equity, now depending in the several courts within the limits of this State, and not already barred by law, may be commenced in, or transferred to, such courts as may have jurisdiction thereof.

SEC. 4. All officers, civil or military, now holding commissions under the authority of the United States or of the Alabama Territory, within this State, shall continue to hold and exercise their respective offices under the authority of this State, until they shall be superseded under the authority of this constitution, and shall receive from the treasury of this State the same compensation which they heretofore received, in proportion to the time they shall be so employed. The governor shall have power to fill vacancies by commissions, to expire so soon as elections or appointments can be made to such offices by authority of this constitution.

SEC. 5. All laws, and parts of laws, now in force in the Alabama Territory, which are not repugnant to the provision of this constitution, shall continue and remain in force as the laws of this State, until they expire by their own limitation, or shall be altered, or repealed, by the legislature thereof.

SEC. 6. Every white male person above the age of twenty-one years, who shall be a citizen of the United States, and resident in this State at the time of the adoption of this constitution, shall be deemed a qualified elector at the first election to be holden in this State. And every white male person who shall reside within the limits of this State at the time of the adoption of this constitution, and shall be otherwise qualified, shall be entitled to hold any office or place of honor, trust, or profit under this State; anything in this constitution to the contrary notwithstanding.

SEC. 7. The president of this convention shall issue writs of election directed to the sheriffs of the several counties, requiring them to cause an election to be held for a governor, representative to the Congress of the United States, members of the general assembly, clerks of the several courts, and sheriffs of the respective counties, at the respective places of election in said counties, on the third Monday and the day following in September next, which elections shall be conducted in the manner prescribed by the existing election laws of the Alabama Territory; and the said governor and members of the general assembly, then duly elected, shall continue to discharge the duties of their respective offices, for the time prescribed by this constitution, and until their successors shall be duly qualified.

SEC. 8. Until the first enumeration shall be made, as directed by this constitution, the county of Autauga shall be entitled to two representatives; the county of Baldwin to one representative; the county of Blount to three representatives; the county of Cahawba to one representative; the county of Clarke to two representatives; the county of Conecuh to two representatives; the county of Cotaco to two representatives; the county of Dallas to two representatives; the county of Franklin to two representatives; the county of Lauderdale to two representatives; the county of Lawrence to two representatives; the county of Madison to eight representatives; the county of Marion to one representative; the county of Monroe to five representatives; the county of Mont-

gomery to three representatives; the county of Mobile to one representative; the county of Saint Clair to one representative; the county of Shelby to two representatives; the county of Tuscaloosa to two representatives; and the county of Washington to two representatives. And each county shall be entitled to one senator, who shall serve for one term.

SEC. 9. The oaths of office, herein directed to be taken, may be administered by any justice of the peace, until the general assembly shall otherwise direct.

ORDINANCE.

This convention, for and in behalf of the people inhabiting this State, do accept the proposition offered by the act of Congress, under which they are assembled; and this convention, for and in behalf of the people inhabiting this State, do ordain, agree, and declare, that they forever disclaim all right and title to the waste or unappropriated lands lying within this State; and that the same shall be and remain at the sole and entire disposition of the United States, and, moreover, that each and every tract of land, sold by the United States after the first day of September next, shall be and remain exempt from any tax, laid by the order or under the authority of this State, whether for State, county, township, parish, or any other purpose whatsoever, for the term of five years from and after the respective days of sales thereof; and that the lands belonging to the citizens of the United States, residing out of the limits of this State, shall never be taxed higher than the lands belonging to persons residing therein, and that no tax shall be imposed on the property of the United States; and that all navigable waters within this State shall forever remain public highways, free to the citizens of this State and of the United States, without any tax, duty, impost, or toll therefor, imposed by this State: and this ordinance is hereby declared irrevocable, without the consent of the United States.

Done in convention at Huntsville, this second day of August, in the year of our Lord one thousand eight hundred and nineteen, and of American Independence the forty-fourth.

J. W. WALKER, *President.*

Attest:
JOHN CAMPBELL, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1819.

FIRST.—*Adopted January*, 1830.

Strike out the thirteenth section of the fifth article of constitution, and in lieu thereof insert the following:

The judges of the several courts of this State shall hold their offices for the term of six years; and for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them on the address of two-thirds of each house of the general assembly: *Provided, however,* That the cause or causes for which such removal shall be required, shall be stated at length in such address, and entered on the journals of each house: *And provided, further,* That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defence, before any vote for such address shall pass; and in all such cases the vote shall be taken by yeas and nays, and entered on the journals of each house respectively: *And provided, also,* That the judges now in office may hold their offices until the session of the general assembly which shall be held in the year one thousand eight hundred and thirty-three, and until their successors shall be elected and qualified, unless removed by address or impeachment.

SECOND.—*Adopted* 1846.

Strike out the words "one year" where they occur in the second section of the third article, and insert in lieu thereof "two years."

Strike out the words "every year" where they occur in the third section of third article, and insert in lieu thereof "at each session."

Strike out the thirteen section of the third article, and insert in lieu thereof the following: "At the first meeting of the general assembly after the adoption of the proposed amendments, the senators when convened shall be divided into two classes, as nearly equal as may be. The seats of the senators of the first class shall be vacated at the expiration of the two next ensuing years; so that one-half may be biennially chosen thereafter, and a rotation thereby kept up perpetually."

Strike out the twenty-ninth section of the third article, which permanently locates the seat of government in this State.

Strike out the word "annual" where it occurs in the eight section of the fourth article, and insert in lieu thereof, "biennial."

THIRD.—*Adopted* 1850.

Strike out the ninth section of the third article of the constitution, and in lieu thereof insert the following:

"SEC. 9. The general assembly shall cause an enumeration to be made in the year eighteen hundred and fifty, and eighteen hundred and fifty-five, and every ten years thereafter, of all the white inhabitants of this State; and the whole number of representatives shall at the first regular session after such enumeration, be apportioned among the several counties, cities, or towns entitled to separate representation, according to their respective number of white inhabitants, and the said apportionment when made shall not be subject to alteration until after the next census shall be taken. The number of representatives shall not exceed one hundred, and the number of senators shall not exceed thirty-three; yet each county, notwithstanding it may not have a number of white inhabitants equal to the ratio fixed, shall have one representative."

Strike out the thirteenth section of the third article of the constitution, and insert in lieu thereof the following:

"SEC. 13. Senators shall be chosen for the term of four years: yet at the general election after every new apportionment, elections shall be held anew in every senatorial district; and the senators elected, when convened at the first session, shall be divided by lot into two classes, as nearly equal as may be: the seats of those of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years, dating in both cases from the day of election, so that one-half may be biennially chosen, except as above provided."

At the end of the twelfth section of the fifth article of the constitution add—

"But at and after the session of the general assembly to be held in the winter of the years eighteen hundred and forty-nine–fifty, the general assembly shall provide by law for the election of judges of the circuit courts by the qualified electors of their circuits respectively, and for the elections of judges of the courts of probate and other inferior courts (not including chancellors) by the qualified electors of the counties, cities, or districts for which such courts may be respectively established; the first Monday in November in any year shall be the day for any election of such judges by the people, or such other day, not to be within a less period than two months of the general election for governor, members of the general assembly, or members of Congress, as the general assembly may by law prescribe: but no change to be made in any circuit or district, or in the mode or time of electing, shall affect the right of any judge to hold office during the term prescribed by the constitution, except at the first elections thereof to be made by the people after the ratification of these amendments or either of them, which elections shall then all be had on the same day throughout the State, and the terms of the judges then to be elected shall commence on that day: vacancies in the office of judge shall be filled by the gov-

ernor, and the persons appointed thereto by him shall hold until the next first Monday in November, or other election day of judges, and until the election and qualification of their successors respectively; and the general assembly shall have power to annex to the offices of any of the judges of the inferior courts the duties of clerks of such courts respectively."

CONSTITUTION OF ALABAMA—1865.*

PREAMBLE.

We, the people of the State of Alabama, by our representatives in convention assembled, in order to establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure to ourselves and to our posterity the rights of life, liberty, and property; invoking the favor and guidance of Almighty God, do ordain and establish the following constitution and form of government for the State of Alabama—that is to say:

ARTICLE I.

DECLARATION OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare—

SECTION 1. That no man, and no set of men, are entitled to exclusive separate public emoluments or privileges, but in consideration of public services.

SEC. 2. That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and that, therefore, they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government, in such manner as they may deem expedient.

SEC. 3. That no person within this State shall, upon any pretence whatever, be deprived of the inestimable privilege of worshipping God in the manner most agreeable to his own conscience; nor be hurt, molested, or restrained in his religious profession, sentiments, or persuasions, provided he does not disturb others in their religious worship.

SEC. 4. That no religion shall be established by law; that no preference shall be given by law to any religious sect, society, denomination, or mode of worship; that no one shall be compelled by law to attend any place of worship, nor to pay any tithes, taxes, or other rate, for building or repairing any place of worship, or for maintaining any minister or ministry; that no religious test shall be required as a qualification to any office or public trust under this State; and that the civil rights, privileges, and capacities of any citizen shall not be in any manner affected by his religious principles.

SEC. 5. That every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

SEC. 6. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures or searches; and that no warrant shall issue to search any place, or to seize any person or thing, without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

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* An ordinance of secession from the United States was adopted by a convention of the people of Alabama on the 11th of January, 1861, and that convention made such changes in the State constitution as were rendered necessary by the transfer of allegiance to the Confederate States government.

When Lewis E. Parsons was appointed provisional governor of Alabama by the President of the United States, he called a constitutional convention, which assembled at Montgomery on the 12th of September, 1865. Several ordinances were passed, one of which declared the ordinance of secession of 1861 null and void, and the above constitution was adopted, but not submitted to the people.

SEC. 7. That in all criminal prosecutions, the accused has a right to be heard by himself and counsel, to demand the nature and cause of the accusation, to have a copy thereof, to be confronted by the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and, in all prosecutions by indictment or information, a speedy public trial by an impartial jury of the county or district in which the offence was committed; and that he shall not be compelled to give evidence against himself, nor be deprived of his life, liberty, or property, but by due course of law.

SEC. 8. That no person shall be accused, arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and that no person shall be punished, but by virtue of a law established and promulgated prior to the offence, and legally applied.

SEC. 9. That no person shall, for any indictable offence, be proceeded against criminally by information; except in cases arising in the land and naval forces, or in the militia when in actual service, or, by leave of the court, for oppression or misdemeanor in office; *Provided*, That in cases of petit larceny, assault, assault and battery, affray, unlawful assemblies, vagrancy, and other misdemeanors, the general assembly may by law dispense with a grand jury, and authorize such prosecutions before justices of the peace, or such other inferior courts as may be by law established; and the proceedings in such cases shall be regulated by law.

SEC. 10. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

SEC. 11. That no person shall be debarred from prosecuting or defending, before any tribunal in this State, by himself or counsel, any civil cause to which he is a party.

SEC. 12. That the right of trial by jury shall remain inviolate.

SEC. 13. That in prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and that in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court.

SEC. 14. That all courts shall be open; and that every person, for any injury done him, in his lands, goods, person or reputation, shall have a remedy by due course of law, and right and justice administered, without sale, denial, or delay.

SEC. 15. That suits may be brought against the State, in such manner, and in such courts, as may be by law provided.

SEC. 16. That excessive fines shall not be imposed, nor cruel punishments be inflicted.

SEC. 17. That all persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident, or the presumption great; and that excessive bail shall not, in any case, be required.

SEC. 18. That the privileges of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SEC. 19. That treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and that no person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 20. That no person shall be attainted of treason by the general assembly; and that no conviction shall work corruption of blood, or forfeiture of estate.

SEC. 21. That the estates of suicides shall descend, or vest, as in cases of natural death; and that, if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

SEC. 22. That the person of a debtor, when there is not a strong presumption of fraud, shall not be detained in prison, after delivering up his estate, for the benefit of his creditors, in such manner as shall be prescribed by law.

SEC. 23. That no power of suspending laws shall be exercised, except by the general assembly, or by its authority.

SEC. 24. That no *ex post facto* law, nor any law impairing the obligation of contracts, shall be made.

SEC. 25. That private property shall not be taken or applied for public use, unless

just compensation be made therefor; nor shall private property be taken for private use, or for the use of corporations other than municipal, without the consent of the owner; *Provided, however*, That laws may be made securing to persons or corporations the right of way over the lands of other persons or corporations, and, for works of internal improvement, the right to establish depots, stations, and turn-outs; but just compensation shall, in such cases, be first made to the owner.

SEC. 26. That the citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

SEC. 27. That every citizen has a right to bear arms in defence of himself and the State.

SEC. 28. That no person, who conscientiously scruples to bear arms, shall be compelled to do so, but may pay an equivalent for personal service.

SEC. 29. That no standing army shall be kept up, without the consent of the general assembly; and in that case, no appropriation for its support shall be for a longer term than one year; and that the military shall, in all cases, and at all times, be in strict subordination to the civil power.

SEC. 30. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

SEC. 31. That no title of nobility, or hereditary distinction, privilege, honor, or emolument, shall ever be granted or conferred in this State; and that no office shall be created, the appointment of which shall be for a longer term than during good behavior.

SEC. 32. That emigration from this State shall not be prohibited, and that no citizen shall be exiled.

SEC. 33. That temporary absence from the State shall not cause a forfeiture of residence once obtained.

SEC. 34. That hereafter there shall be in this State neither slavery, nor involuntary servitude, otherwise than for the punishment of crime, whereof the party shall have been duly convicted.

SEC. 35. That the right of suffrage shall be protected by laws regulating elections, and prohibiting, under adequate penalties, all undue influence from power, bribery, tumult, or other improper conduct.

SEC. 36. This enumeration of certain rights shall not be construed to deny or disparage others retained by the people; and to guard against any encroachment on the rights hereby retained, or any transgression of any of the high powers by this constitution delegated, we declare, that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate, and that all laws contrary thereto, or to the following provisions, shall be void.

ARTICLE II.

STATE BOUNDARIES AND COUNTIES.

SECTION 1. The boundaries of this State are established and declared to be as follows—that is to say: Beginning at the point where the thirty-first degree of north latitude crosses the Perdido River; thence east, to the western boundary-line of the State of Georgia; thence along said line, to the southern boundary-line of the State of Tennessee; thence west, along the southern boundary-line of the State of Tennessee, crossing the Tennessee River, and on to the second intersection of said river by said line; thence up said river to the mouth of Big Bear Creek; thence by a direct line to the northwest corner of Washington County in this State, as originally formed; thence southerly, along the line of the State of Mississippi, to the Gulf of Mexico; thence eastwardly, including all islands within six leagues of the shore, to the Perdido River; and thence up the said river, to the beginning.

SEC. 2. The general assembly may, by a vote of two-thirds of both branches thereof, arrange and designate boundaries for the several counties of this State, which bound-

aries shall not be altered except by a like vote; but no new county shall be hereafter formed of less extent than six hundred square miles, nor shall any existing county be reduced to a less extent than six hundred square miles; and no county shall be formed not containing a sufficient number of inhabitants to entitle it to one representative under the existing ratio of representation, nor unless the counties from which it is taken shall be left with the required number entitling them to separate representation.

ARTICLE III.

DISTRIBUTION OF POWERS OF GOVERNMENT.

SECTION 1. The powers of the government of the State of Alabama shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy—to wit: those which are legislative to one, those which are executive to another, and those which are judicial to another.

SEC. 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in two distinct branches, the one to be styled the "*senate*," and the other the "*house of representatives*," and both together the "*general assembly of the State of Alabama*."

SEC. 2. All laws shall be passed by original bill; and their style shall be, "*Be it enacted by the senate and house of representatives of the State of Alabama in general assembly convened.*" Each law shall embrace but one subject, which shall be described in the title; and no law, or any section of any law, shall be revised or amended by reference only to its title and number, but the law or section revised or amended shall itself be set forth at full length.

SEC. 3. Members of both houses of the general assembly shall be chosen by the qualified electors; and the regulations for holding such elections shall, as to time, place, and manner, be the same for each house, and shall be prescribed by law. After the special election to be held on the first Monday in November, 1865, such elections shall, until otherwise directed by law, take place on the first Monday in August.

SEC. 4. No person who holds any lucrative office under the United States, or under this State, or under any other State or government (except postmasters, officers in the militia, to whose office no annual salary is attached, justices of the peace, members of the court of county commissioners, notaries public, and commissioners of deeds, excepted;) no person who has been convicted of having given or offered any bribe to procure his election; no person who has been convicted of bribery, forgery, perjury, or other high crime or misdemeanor which may be by law declared to disqualify him; and no person who has been a collector or holder of public moneys, and has failed to account for and pay over into the treasury all sums for which he may be by law accountable, shall be eligible to the general assembly.

SEC. 5. Representatives shall be chosen for the term of two years; and no person shall be a representative who is not a white man, twenty-one years of age, a citizen of the United States, and who has not been an inhabitant of this State for the two years next preceding the election, and for the last year thereof a resident of the county for which he is chosen.

SEC. 6. The house of representatives shall consist of not more than one hundred members, who shall be apportioned by the general assembly among the several counties of the State according to the number of white inhabitants in them respectively; and, to this end, the general assembly shall cause an enumeration of all the inhabitants of the State to be made in the year one thousand eight hundred and sixty-six,

and again in the year one thousand eight hundred and seventy-five, and every ten years thereafter, and shall make an apportionment of the representatives among the several counties at the first regular session after each enumeration; which apportionment, when made, shall not be subject to alteration, until after the next census shall have been taken; *Provided*, That each county shall be entitled to at least one representative; *Provided further*, That where two or more adjoining counties shall each have a residuum or fraction over and above the ratio then fixed by law, which fractions, when added together, equal or exceed that ratio, in that case, the county having the largest fraction shall be entitled to one additional representative.

SEC. 7. The whole number of senators shall be not less than one-fourth, nor more than one-third of the whole number of representatives; and it shall be the duty of the general assembly, at its first session after the making of each enumeration, as provided by the last preceding section, to fix by law the number of senators, and to divide the State into as many senatorial districts as there are senators; which districts shall be as nearly equal to each other as may be in the number of white inhabitants, and each shall be entitled to one senator, and no more; *Provided*, That, in the formation of said districts, no county shall be divided, and no two or more counties, which are separated entirely by a county belonging to another district, shall be joined into one district; *And provided further*, That the senatorial districts, when formed, shall not be changed until after the next census shall have been taken.

SEC. 8. No person shall be a senator, who is not a white man, at least twenty-seven years of age, a citizen of the United States, and who has not been an inhabitant of this State for two years next preceding the election, and for the last year thereof a resident in the district for which he is chosen.

SEC. 9. Senators shall be chosen for the term of four years; yet, at the first general election after each new apportionment, elections shall be held anew in all the senatorial districts; and the senators elected, when convened at the next ensuing session of the general assembly, shall be divided by lot into two classes, as nearly equal to each other as may be; the seats of the senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years from the day of election, so that (except as above provided) one-half of the senators may be chosen biennially.

SEC. 10. The general assembly shall meet annually, on such day as may be by law prescribed; and shall not remain in session longer than thirty days, unless by a vote of two-thirds of each house.

SEC. 11. At the first regular or called session after each general election for representatives, the senate shall choose a president and its other officers, and the house of representatives shall choose a speaker and its other officers; and the officers so chosen shall be entitled to hold their respective offices until the next general election for representatives. Each house shall judge of the qualifications, elections and returns of its own members; but a contested election shall be determined in such manner as may be by law provided.

SEC. 12. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

SEC. 13. Each house may determine the rules of its own proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same offence; and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 14. Each house may, during the session, punish by imprisonment any person, not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings; *Provided*, That such imprisonment shall not, at any one time, exceed forty-eight hours.

SEC. 15. Each house shall keep a journal of its own proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as in its judgment, may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals. Any member of either house shall have leave to dissent from, and protest

against, any act or resolution which he may think injurious to the public or to an individual, and have the reasons of his dissent entered on the journals.

SEC. 16. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

SEC. 17. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 18. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of a law, until it be read in each house on three several days, and free discussion thereon be allowed; unless, in case of urgency, four-fifths of the house in which the bill may be depending shall deem it expedient to dispense with this rule; and every bill, having passed both houses, shall be signed by the speaker and president of the respective houses; *Provided*, That all bills for raising revenue shall originate in the house of representatives, but may be amended or rejected by the senate as other bills.

SEC. 19. In all elections by the general assembly, the members shall vote *viva voce*, and the votes shall be entered on the journals.

SEC. 20. No senator or representative shall, during the term for which he was elected, be elected or appointed to any civil office of profit under this State, except such offices as may be filled by elections by the people.

SEC. 21. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest, during the session of the general assembly, and in going to and returning from the same, allowing one day for every twenty miles such member may reside from the place at which the general assembly is convened; nor shall any member be liable to answer for anything spoken in debate in either house, in any court or place elsewhere.

SEC. 22. Each member of the general assembly shall receive from the public treasury such compensation for his services as may be fixed by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

SEC. 23. When vacancies happen in either house, the governor, or the person exercising the power of governor for the time being, shall issue writs of election to fill such vacancies.

SEC. 24. The house of representatives shall have the sole power of preferring impeachments; all impeachments shall be tried by the senate; the senators, when sitting for that purpose, shall be on oath or affirmation; and no person shall be convicted under an impeachment, without the concurrence of two-thirds of the senators present.

SEC. 25. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties, who may choose that summary mode of adjustment.

SEC. 26. It shall be the duty of the general assembly, from time to time, as circumstances may require, to frame and adopt a penal code, founded on principles of reformation.

SEC. 27. It shall also be the duty of the general assembly, within five years after the adoption of this constitution, and within every subsequent period of ten years, to make provision by law for the revision, digesting, and promulgation of all the public statutes of this State, both civil and criminal.

SEC. 28. The general assembly shall have power to pass such penal laws as they may deem expedient to suppress the evil practice of duelling, extending to disqualification to hold office.

SEC. 29. It shall be the duty of the general assembly to regulate by law the cases in which deductions shall be made from the salaries of public officers, for neglect of duty in their official capacities, and the amount of such deductions.

SEC. 30. Divorces from the bonds of matrimony shall not be granted, but in the cases by law provided for, and by suit in chancery; but decrees in chancery for divorce shall be final, unless appealed from, in the manner prescribed by law, within three months from the date of the enrolment thereof.

SEC. 31. It shall be the duty of the general assembly, at its next session, and from time to time thereafter as it may deem proper, to enact laws prohibiting the inter-

marriage of white persons with negroes, or with persons of mixed blood, declaring such marriages null and void *ab initio*, and making the parties to any such marriage subject to criminal prosecutions, with such penalties as may be by law prescribed.

SEC. 32. The general assembly shall make provision by law for obtaining correct knowledge of the several objects proper for improvement in relation to the roads and navigable waters in this State, and for making a systematic and economical application of the means appropriated to those objects.

SEC. 33. The general assembly shall, from time to time, enact necessary and proper laws for the encouragement of schools and the means of education; shall take proper measures to preserve from waste or damage such lands as have been or may be granted by the United States for the use of schools in each township in this State, and apply the funds which may be raised from such lands in strict conformity with the object of such grant; shall take like measures for the improvement of such lands as have been or may hereafter be granted by the United States to this State for the support of a seminary of learning; and the money which may be raised from such lands, by rent, lease, or sale, or from any other quarter, for the purpose aforesaid, shall be and forever remain a fund for the exclusive support of a State university for the promotion of the arts, literature, and the sciences; and it shall be the duty of the general assembly to provide by law effectual means for the improvement and permanent security of the funds of such institution.

SEC. 34. Not more than one bank shall be established, nor more than than one bank charter be renewed, at any one session of the general assembly; nor shall any bank be established, nor any bank charter be renewed, without the concurrence of two-thirds of each house of the general assembly, and in conformity with the following rules—that is to say:

Rule 1. The stockholders shall be respectively liable for the debts of the bank in proportion to the amount of their stock.

Rule 2. The remedy for the collection of debts shall be reciprocal for and against the bank.

Rule 3. No bank shall commence operations, until one-half of the capital stock subscribed for be actually paid in gold and silver; which amount shall, in no case, be less than one hundred thousand dollars.

Rule 4. If any bank shall neglect or refuse to pay, on demand, any bill, note, or obligation issued by the corporation, according to the promise therein expressed, the holder of such bill, note, or obligation, shall be entitled to receive and recover interest thereon until paid, or until specie payments are resumed by the bank, at the rate of twelve per centum per annum from the date of such demand; unless the general assembly shall, by a vote of two-thirds of each house thereof, sanction such suspension of specie payments.

Rule 5. Whenever any bank suspends specie payments, its charter is thereby forfeited; unless such suspension shall be sanctioned and legalized, at the next session of the general assembly, by a vote of two-thirds of each house thereof.

SEC. 35. The general assembly shall provide by law for organizing and disciplining the militia of this State, in such manner as they may deem expedient, not incompatible with the Constitution and laws of the United States; shall fix the rank of all staff officers, and prescribe the manner in which all officers shall be appointed or elected; *Provided*, That no other officers than adjutants-general and quartermasters-general shall be appointed by the general assembly; *And provided further*, That major-generals shall appoint their aides and all division and staff officers, brigadier-generals shall appoint their aides and all other brigade staff officers, and colonels shall appoint their regimental staff officers.

SEC. 36. It shall be the duty of the general assembly, at its next session, and from time to time thereafter, to enact such laws as will protect the freedmen of this State in the full enjoyment of all their rights of person and property, and guard them and the State against any evils that may arise from their sudden emancipation.

SEC. 37. No money shall be drawn from the treasury, but in pursuance of an appropriation made by law; and a regular statement and account of the receipts and

expenditures of all public moneys shall be published annually, in such manner as may be by law directed.

SEC. 38. No special law shall be enacted for the benefit of individuals or corporations, in cases which are provided for by a general law, or where the relief sought can be given by any court of this State.

SEC. 39. All lands liable to taxation in this State, shall be taxed in proportion to their value.

SEC. 40. No power to levy taxes shall be delegated to individuals or private corporations.

SEC. 41. The general assembly shall not borrow or raise money on the credit of the State, (except for purposes of military defence against actual or threatened invasion, rebellion, or insurrection,) without the concurrence of two-thirds of the members of each house; nor shall the debts or liabilities of any corporation, person, or persons, or other State, be guaranteed, nor any money, credit, or other thing, be loaned or given away, except by a like concurrence of each house; and the votes shall in each case, be taken by yeas and nays, and be entered on the journals.

SEC. 42. In the event of the annexation of any foreign territory to this State, the general assembly shall enact laws, extending to the inhabitants of the acquired territory all the rights and privileges which may be required by the terms of the acquisition; anything in this constitution to the contrary notwithstanding.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of Alabama.

SEC. 2. The governor shall be elected by the qualified electors, at the time and places at which they shall respectively vote for representatives.

SEC. 3. The returns of every election for governor shall be sealed up, and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall, during the first week of the session, open and publish them in the presence of both houses of the general assembly. The person having the highest number of votes shall be governor; but, if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of both houses. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 4. The governor shall hold his office for the term of two years from the time of his installation, and until his successor shall be qualified, but shall not be eligible for more than four years in any term of six years; he shall be at least thirty years of age, a native citizen of the United States, and shall have resided in this State as least four years next preceding the day of his election.

SEC. 5. He shall, at stated times, receive a compensation for his services, which shall not be either increased or diminished during the term for which he shall have been elected.

SEC. 6. He shall always reside, during the session of the general assembly, at the place where their session may be held, and at other times wherever, in their opinion, the public good may require.

SEC. 7. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof, except when they shall be called into the service of the United States; and when acting in the service of the United States, the general assembly shall fix his rank.

SEC. 8. He shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and to repel invasions; and shall appoint his aides-de-camp.

SEC. 9. He may require from the secretary of state, the comptroller of public accounts, and the state treasurer, information in writing on any subject relating to the duties of their respective offices.

SEC. 10. He may, by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if, since their last adjournment, that shall have become dangerous, from an enemy, or from contagious disorders; and in case of disagreement between the two houses, with respect to the time of adjournment, he may adjourn them to such time as he may think proper, not beyond the day of the next annual meeting of the general assembly.

SEC. 11. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient.

SEC. 12. He shall take care that the laws are faithfully executed.

SEC. 13. In all criminal and penal cases, except those of treason and impeachment, he shall have power to grant reprieves and pardons, and to remit fines and forfeitures, under such rules and regulations as may be prescribed by law; and in cases of treason, he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons, and, in the recess of the senate, he may respite the sentence until the end of the next session of the general assembly.

SEC. 14. There shall be a great seal of the State, which shall be kept and used by the governor officially; and the seal now in use shall continue to be the great seal of the State, until another shall have been adopted by the general assembly.

SEC. 15. Vacancies that may happen in offices, the appointment of which is vested in the general assembly, shall, during the recess of the general assembly, be filled by the governer, by granting commissions, which shall expire at the end of the next session.

SEC. 16. Every bill which shall have passed both houses of the general assembly, shall be presented to the governor: if he approve, he shall sign it, but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon the journals, and proceed to reconsider it; if, after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by whom it shall likewise be reconsidered, and, if approved by a majority of the whole number elected to that house, it shall become a law; but, in such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it; unless the general assembly, by their adjournment, prevent its return, in which case it shall not be a law.

SEC. 17. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, (except on questions of adjournment, and for bringing on elections by the two houses,) shall be presented to the governor, and, before it shall take effect, be approved by him, or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the case of a bill.

SEC. 18. No person shall, at one and the same time, hold the office of governor, and any other office or commission, civil or military, either under this State, the United States, or any other State or government.

SEC. 19. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the president of the senate shall exercise all the power and authority appertaining to the office of governor, until the time appointed by the constitution for the election of governor shall arrive, (unless the general assembly shall provide by law for the election of a governor to fill such vacancy,) or until the governor who is absent or impeached shall return or be acquitted; and if, during such vacancy in the office of governor, the president of the senate shall be impeached, removed from office, refuse to qualify, die, resign, or be absent from the State, the speaker of the house of representatives shall, in like manner, administer the government.

SEC. 20. The president of the senate and the speaker of the house of representatives shall, during the time they respectively administer the government, receive the same compensation which the governor would have received if he had been employed in the duties of his office.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in one supreme court, circuit courts to be held in each county of the State, and such inferior courts of law and equity, to consist of not more than five members, as the general assembly may, from time to time, direct, ordain and establish.

SEC. 2. Except in cases otherwise directed in this constitution, the supreme court shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may from time to time be prescribed by law; *Provided*, That said court shall have power to issue writs of injunction, *mandamus*, *quo warranto*, *habeas corpus*, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdictions.

SEC. 3. The supreme court shall be held at the seat of government; but if that shall have become dangerous, from an enemy or from disease, may adjourn to a different place.

SEC. 4. The State shall be divided into convenient circuits, each of which shall contain not less than three nor more than six counties; and for each circuit there shall be appointed a judge, who shall, after his appointment, reside in the circuit for which he may be appointed.

SEC. 5. The circuit court shall have original jurisdiction in all matters, civil and criminal, within this State, not otherwise excepted in this constitution; but in civil cases only where the matter or sum in controversy exceeds fifty dollars.

SEC. 6. A circuit court shall be held in each county in the State, at least twice in every year; and the judges of the several circuits may hold courts for each other when they deem it expedient, and shall do so when directed by law.

SEC. 7. The general assembly shall have power to establish a court or courts of chancery, with original and appellate equity jurisdiction; *Provided*, That the judges of the several circuit courts shall have power to issue writs of injunction, returnable into courts of chancery.

SEC. 8. The general assembly shall have power to establish, in each county within this State, a court of probate, for the granting of letters testamentary, and of administration, and for orphans' business.

SEC. 9. A competent number of justices of the peace shall be appointed in and for each county, in such mode, and for such term of office as the general assembly may by law direct; whose jurisdiction, in civil cases, shall be limited to causes in which the amount in controversy shall not exceed one hundred dollars; and in all cases tried by a justice of the peace, the right of appeal shall be secured under such rules and regulations as may be prescribed by law.

SEC. 10. The judges of the supreme court, circuit courts, and courts of chancery, shall, at stated times, receive for their services a compensation, which shall be fixed by law, and which shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any office of profit or trust, under this State, the United States, or any other power.

SEC. 11. Judges of the supreme court, and chancellors, shall be elected by a joint vote of both houses of the general assembly; judges of the circuit and probate courts, and of such other inferior courts as may be by law established, shall be elected by the qualified electors of the respective counties, cities, or districts, for which such courts may be established. Elections of judges by the people shall be held on the first Monday in May, or such other day as may be by law prescribed, not within a less period than two months of the day fixed by law for the election of governor, members of the general assembly, or members of Congress. Vacancies in the office of circuit judge, probate judge, or judge of any other inferior court established by law, shall be filled by the governor; and the person appointed by him shall hold office until the next election day by law appointed for the election of judges, and until his successor shall have been elected and qualified.

SEC. 12. The judges of the several courts of this State shall hold their offices for the term of six years; and the right of any judge to hold his office for the full term hereby prescribed, shall not be affected by any change hereafter made by law in any circuit or district, or in the mode or time of election; but for any wilful neglect of duty, or any other reasonable cause, which shall not be a sufficient ground of impeachment, the governor shall remove any judge, on the address of two-thirds of each house of the general assembly; *Provided*, That the cause or causes, for which said removal may be required, shall be stated at length in such address, and entered on the journals of each house; *And, provided further*, That the judge intended to be removed shall be notified of such cause or causes, and shall be admitted to a hearing in his own defence, before any vote for such address; and in all such cases, the vote shall be taken by yeas and nays, and be entered on the journals of each house respectively.

SEC. 13. No person who shall have arrived at the age of seventy years, shall be appointed or elected to, or shall continue in, the office of judge in this State.

SEC. 14. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the State; as also the judges of the circuit courts within their respective circuits, and the judges of the inferior courts within their respective counties.

SEC. 15. Clerks of the circuit courts, and of such inferior courts as may be by law established, shall be elected by the qualified electors in each county, for the term of four years; and may be removed from office, for such causes, and in such manner, as may be by law prescribed. Vacancies in the office of clerk shall be filled by the judge of the court, and the person so appointed shall hold office until the next general election, and until his successor is elected and qualified; *Provided*, That the general assembly shall have power to annex the duties of clerk to the office of judge of any inferior court by law established.

SEC. 16. The style of all process shall be, *The State of Alabama;* and all prosecutions shall be carried on in the name and by the authority of the State of Alabama, and shall conclude "against the peace and dignity of the same."

ARTICLE VII.

STATE AND COUNTY OFFICERS.

SECTION 1. A secretary of state, a comptroller of public accounts, and a State treasurer, shall be elected by a joint vote of both houses of the general assembly, each of whom shall continue in office during the term of two years, shall perform all the duties that may be required of him by law, and receive such compensation as may be by law provided.

SEC. 2. An attorney-general, and as many solicitors as there are judicial circuits in the State, shall be elected by a joint vote of both houses of the general assembly, each of whom shall hold his office for the term of four years, shall perform all the duties that may be required of him by law, and shall receive such compensation for his services as may be by law provided, which shall not be diminished during his continuance in office.

SEC. 3. A sheriff shall be elected in each county, by the qualified electors thereof, who shall hold his office for the term of three years, unless sooner removed, and shall not be eligible to serve, either as principal or deputy, for any two successive terms. Vacancies in the office of sheriff shall be filled by the governor, as in other cases; and the person so appointed shall continue in office until the next general election in the county for sheriff as by law provided.

SEC. 4. No member of Congress, nor any person who holds any office of profit or trust under the United States, (except postmasters,) or any other State or government; nor any person who shall have been convicted of having given or offered any bribe to procure his election or appointment; nor any person who shall have been convicted of bribery, forgery, perjury, or other high crime or misdemeanor which may be by law declared to disqualify him,—shall be eligible to any office of profit or trust under this State.

SEC. 5. All commissions shall be in the name, and by the authority of the State of Alabama; shall be sealed with the great seal of the State, signed by the governor, and attested by the secretary of state.

SEC. 6. All civil officers of this State, legislative, executive, and judicial, before they enter upon the execution of the duties of their respective offices, shall take the following oath: "I solemnly swear," (or affirm, as the case may be,) "that I will support the Constitution of the United States, and the constitution of the State of Alabama, so long as I continue a citizen thereof; and that I will faithfully discharge, to the best of my abilities, the duties of the office of ——; So help me God."

SEC. 7. All civil officers of the State, whether elected by the people, or by the general assembly, or appointed by the governor, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust, or profit, under the State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment according to law.

ARTICLE VIII.

ELECTIONS BY THE PEOPLE.

SECTION 1. Every white male person, of the age of twenty-one years and upward, who shall be a citizen of the United States, and shall have resided in this State one year next preceding the election, and the last three months thereof in the county in which he offers to vote, shall be deemed a qualified elector; *Provided*, That no soldier, seaman, or marine, in the Regular Army or Navy of the United States, and no person who shall have been convicted of bribery, forgery, perjury, or other high crime or misdemeanor which may be by law declared to disqualify him, shall be entitled to vote at any election in this State.

SEC. 2. In all elections by the people, the electors shall vote by ballot, until otherwise directed by law.

SEC. 3. Except in cases of treason, felony, or breach of the peace, electors shall be privileged from arrest during their attendance at elections, and in going to and returning from the same.

SEC. 4. Returns of elections for all civil officers elected by the people, who are to be commissioned by the governor, and also for members of the general assembly, shall be made to the secretary of state.

ARTICLE IX.

AMENDMENT AND REVISION OF THE CONSTITUTION.

SECTION 1. The general assembly may, whenever two-thirds of each house shall deem it necessary, propose amendments to this constitution; which proposed amendments shall be duly published in print, (in such manner as the general assembly may direct,) at least three months before the next general election for representatives, for the consideration of the people; and it shall be the duty of the several returning officers, at the next ensuing general election for representatives, to open a poll for the vote of the qualified electors on the proposed amendments, and to make a return of said vote to the secretary of state; and if it shall thereupon appear that a majority of all qualified electors of the State, who voted for representatives, voted in favor of the proposed amendments, and two-thirds of each house of the next general assembly, before another election, shall ratify said amendments, each house voting by yeas and nays, said amendments shall be valid, to all intents and purposes, as parts of this constitution; *Provided*, That said proposed amendments shall, at each of said sessions of the general assembly, have been read three times, on three several days, in each house.

SEC. 2. After the expiration of twelve months from the adoption of this constitu-

tion, no convention shall be held, for the purpose of altering or amending the constitution of this State, unless the question of convention or no convention shall be first submitted to a vote of the qualified electors of the State, and approved by a majority of the electors voting at said election.

Adopted by the convention, by the unanimous vote of all the delegates present, at the State capitol, in the city of Montgomery, on this, the thirtieth day of September, in the year of our Lord one thousand eight hundred and sixty-five, and of the Independence of the United States the ninetieth year.

BENJ. FITZPATRICK,
President of Convention.

ATTEST:
WM. H. OGBOURNE,
Sec'y of Convention.

CONSTITUTION OF ALABAMA—1867.*

PREAMBLE.

We, the people of the State of Alabama, by our representatives in convention assembled, in order to establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure to ourselves and to our posterity the rights of life, liberty, and property, invoking the favor and guidance of Almighty God, do ordain and establish the following constitution and form of government for the State of Alabama:

ARTICLE I.

DECLARATION OF RIGHTS.

That the great general and essential principles of liberty and free government may be recognized and established, we declare:

SECTION 1. That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness.

SEC. 2. That all persons resident in this State, born in the United States, or naturalized, or who shall have legally declared their intention to become citizens of the United States, are hereby declared citizens of the State of Alabama, possessing equal civil and political rights and public privileges.

SEC. 3. That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and that, therefore, they have at all times, an inherent right to change their form of government, in such manner as they may deem expedient.

SEC. 4. That no person shall be deprived of the right to worship God according to the dictates of his own conscience.

* Congress having directed how constitutions should be formed in the States recently in rebellion, by the acts of March 2 and March 21, 1867, a convention was called, which assembled at Montgomery November 5, 1867, and framed the above constitution. Congress, after its reception, passed an act on the 25th of June, 1868, declaring that whenever the legislatures of Alabama [and other States named] should pass an act ratifying the fourteenth article of amendment to the Constitution, such State should be declared entitled to the admission of its Representatives in Congress. This was done on the 11th of July, 1868, and proclamation thereof was made by the President of the United States on the 20th of July, 1868.

SEC. 5. That no religion shall be established by law.

SEC. 6. That any citizen may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

SEC. 7. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable seizures or searches, and that no warrant shall issue to search any place, or to seize any person or thing, without probable cause, supported by oath or affirmation.

SEC. 8. That in all criminal prosecutions, the accused has a right to be heard by himself and counsel, or either; to demand the nature and cause of the accusation; to have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment or information, a speedy public trial, by an impartial jury of the county or district in which the offence was committed; and that he shall not be compelled to give evidence against himself, or be deprived of his life, liberty, or property, but by due process of law.

SEC. 9. That no person shall be accused, or arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and that no person shall be punished but by virtue of a law established and promulgated prior to the offence, and legally applied.

SEC. 10. That no person shall, for any indictable offence, be proceeded against criminally, by information, except in cases arising in the land and naval service, or in the militia when in actual service, or by leave of the court for oppressions or misdemeanor in office: *Provided*, That in cases of petit larceny, assault, assault and battery, affray, unlawful assemblies, vagrancy, and other misdemeanors, the general assembly may, by law, dispense with a grand jury, and authorize such prosecutions and proceedings before justices of the peace, or such inferior courts as may be by law established.

SEC. 11. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

SEC. 12. That no person shall be debarred from prosecuting or defending, before any tribunal in the State, by himself, or counsel, any civil cause to which he is a party.

SEC. 13. That the right of trial by jury shall remain inviolate.

SEC. 14. That in prosecution for the publication of papers investigating the official conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and that in all indictments for libel, the jury shall have the right to determine the law and the facts under the direction of the court.

SEC. 15. That all courts shall be open, that every person, for any injury done him in his lands, goods, person or reputation, shall have a remedy by due process of law; and right and justice shall be administered without sale, denial or delay.

SEC. 16. That suits may be brought against the State, in such manner and in such courts as may be by law provided.

SEC. 17. That excessive fines shall not be imposed, or cruel punishment inflicted.

SEC. 18. That all persons shall, before conviction, be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great. Excessive bail shall not, in any case, be required.

SEC. 19. The privilege of the writ of *habeas corpus* shall not be suspended, except when necessary for public safety in times of rebellion or invasion.

SEC. 20. That treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and that no person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 21. That no person shall be attainted of treason by the general assembly; and that no conviction shall work corruption of blood or forfeiture of estate.

SEC. 22. That no person shall be imprisoned for debt.

SEC. 23. That no power of suspending laws shall be exercised, except by the general assembly, or by its authority.

SEC. 24. That no *ex post facto* law, or any law impairing the obligation of contracts, shall be made.

SEC. 25. That private property shall not be taken or applied for public use, unless just compensation be made therefor; nor shall private property be taken for private use, or for the use of corporations, other than municipal, without the consent of the owner: *Provided, however,* That laws may be made securing to persons or corporations the right of way over the lands of either persons or corporations, and for works of internal improvement, the right to establish depots, stations, and turn-outs; but just compensation shall, in all cases, be first made to the owner.

SEC. 26. That all navigable waters shall remain forever public highways, free to the citizens of the State, and of the United States, without tax, impost or toll imposed; and that no tax, toll, impost or wharfage shall be demanded or received from the owner of any merchandise or commodity, for the use of the shores, or any wharf erected on the shores, or in or over the waters of any navigable stream, unless the same be expressly authorized by the general assembly.

SEC. 27. That the citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the power of government, for redress of grievances, or other purposes, by petition, address or remonstrance.

SEC. 28. That every citizen has a right to bear arms in defence of himself and the State.

SEC. 29. That no person who conscientiously scruples to bear arms shall be compelled to do so, but may pay an equivalent for personal service.

SEC. 30. That no standing army shall be kept up without the consent of the general assembly; and, in that case, no appropriation for its support shall be made for a longer term than one year, and the military shall, in all cases, and at all times, be in strict subordination to the civil power.

SEC. 31. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner; or in time of war, but in a manner to be prescribed by law.

SEC. 32. That no title of nobility, or hereditary distinction, privilege, honor, or emolument, shall ever be granted or conferred in this State; that no property qualification shall be necessary to the election to, or holding of any office in this State, and that no office shall be created, the appointment to which shall be for a longer time than during good behavior.

SEC. 33. That emigration from the State shall not be prohibited; and that no citizen shall be exiled.

SEC. 34. That temporary absence from the State shall not cause a forfeiture of residence once obtained.

SEC. 35. That no form of slavery shall exist in this State; and there shall be no involuntary servitude, otherwise than for the punishment of crime, of which the party shall have been duly convicted.

SEC. 36. The right of suffrage shall be protected by laws, regulating elections, and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult or other improper conduct.

SEC. 37. That this State has no right to sever its relations to the Federal Union, or to pass any law in derogation of the paramount allegiance of the citizens of this State to the Government of the United States.

SEC. 38. That this enumeration of certain rights shall not impair or deny others retained by the people.

ARTICLE II.

STATE AND COUNTY BOUNDARIES.

SECTION 1. The boundaries of this State are established and declared to be as follows—that is to say: Beginning at the point where the thirty-first degree of north latitude crosses the Perdido River; thence east to the western boundary-line of the State of Georgia; thence along said line to the southern boundary-line of the State of

Tennessee; thence west along the southern boundary-line to the State of Tennessee, crossing the Tennessee River, and on to the second intersection of said river, by said line; thence up said river to the mouth of Big Bear Creek; thence by a direct line to the northwest corner of Washington County, in this State, as originally formed; thence southerly, along the line of the State of Mississippi, to the Gulf of Mexico; thence eastwardly, including all islands within six leagues of the shore, to the Perdido River, and thence up the said river to the beginning.

SEC. 2. The general assembly may, by a two-thirds vote of both houses thereof, arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered, except by a like vote. But no new counties shall be hereafter formed of less extent than six hundred square miles; and no existing county shall be reduced to less extent than six hundred square miles; and no new county shall be formed which does not contain a sufficient number of inhabitants to entitle it to one representative under the ratio of representation existing at the time of its formation, or unless the county or counties from which it is taken shall be left with the required number of inhabitants entitling such county or counties to separate representation.

ARTICLE III.

DISTRIBUTION OF POWERS OF GOVERNMENT.

SECTION 1. The powers of the government of the State of Alabama shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

SEC. 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives.

SEC. 2. The style of the laws of this State shall be: "*Be it enacted by the general assembly of Alabama.*" Each law shall contain but one subject, which shall be clearly expressed in its title; and no law shall be revised or amended unless the new act contain the entire act revised, or the section or sections amended; and the section or sections so amended shall be repealed.

SEC. 3. Senators and representatives shall be elected by the qualified electors, on the Tuesday after the first Monday in November. The term of office of the senators shall be four years, and that of the representatives two years, commencing on the day after the general election.

SEC. 4. No person shall be a representative unless he is eligible as an elector to vote for members of the general assembly.

SEC. 5. No person shall be a senator, unless he be eligible as an elector to vote for members of the general assembly, and shall be twenty-seven years of age, and shall have resided for two years within the State, and for the last year thereof within the district for which he shall be chosen.

SEC. 6. The house of representatives, when assembled, shall choose a speaker, and its other officers; and the senate shall choose a president, in the absence of the lieutenant-governor, and its other officers: each house shall judge of the qualifications, elections and returns of its own members, but a contested election shall be determined in such manner as shall be directed by law. The president of the senate and the speaker of the house of representatives shall remain in office until their successors are elected and qualified.

SEC. 7. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 8. Each house may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member; but not a second time for the same cause; and shall have all other powers necessary for, a branch of the legislature of a free and independent State.

SEC. 9. Each house, during the session, may punish by imprisonment, any person not a member, for disrespectful or disorderly behavior in its presence, or obstructing any of its proceedings: *Provided*, That such imprisonment shall not, at any time, exceed forty-eight hours.

SEC. 10. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as in its judgment may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-tenth of the members present, be entered on the journals. Any member of either house shall have liberty to dissent from, or protest against, any act or resolution, which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journals.

SEC. 11. Members of the general assembly shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest; and they shall not be subject to any civil process during the session of the general assembly, nor for fifteen days next before the commencement and after the termination of each session.

SEC. 12. When vacancies occur in either house, the governor, or the person exercising the powers of the governor, shall issue writs of elections to fill such vacancies.

SEC. 13. The doors of each house shall be open, except on such occasions as in the opinion of the house may require secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 15. Bills may originate in either house, and be amended, altered or rejected by the other; but no bill shall have the force of law, until on three several days it be read in each house, and free discussion be allowed thereon; unless in case of urgency, four-fifths of the house in which the bill shall be pending, may deem it expedient to dispense with this rule. And every bill, having passed both houses, shall be signed by the speaker and president of their respective houses: *Provided*, That all bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them as other bills.

SEC. 16. Every bill or resolution having the force of law, to which the concurrence of both houses of the general assembly may be necessary, except on a question of adjournment, which shall have passed both houses, shall be presented to the governor, and if he approve, he shall sign it; if not, he shall return it with his objections, to the house in which it shall have originated, who shall enter the objections at large on the journals, and proceed to reconsider it. If after such reconsideration, a majority of the whole number of members of that house shall agree to pass it, it shall be sent, together with the objections, to the other house, by which it shall be reconsidered, and if approved by a majority of the whole number of members of that house, it shall have the same effect as if it had been signed by the governor; but in all such cases, the votes of both houses shall be taken by yeas and nays, and the names of persons voting for and against the bill or resolution, shall be entered on the journals of both houses respectively. If the bill or resolution shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, it shall have the same force and effect as if he had signed it, unless the general assembly by its adjournment, prevent its return, in which case it shall not be a law.

SEC. 17. Every order, resolution or vote, to which the concurrence of both houses may be necessary, (except on questions of adjournment, and for bringing on elections by the two houses,) shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the case of bills.

SEC. 18. Each member of the general assembly shall receive from the public treasury such compensation for his services as may be prescribed by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

SEC. 19. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such office as may be filled by election by the people.

SEC. 20. No person who holds any lucrative office under the United States, or under this State, or any other State or government (except postmasters, officers in the militia to whose office no annual salary is attached, justices of the peace, members of the court of county commissioners, notaries public, and commissioners of deeds;) no person who has been convicted of having given or offered any bribe to procure his election to any office; no person who has been convicted of bribery, forgery, perjury, or other high crime, or misdemeanor, which may be by law declared to disqualify him; and no person who has been a collector, or holder of any public moneys, and has failed to account for and pay over to the treasury all sums for which he may be by law accountable, shall be eligible to the general assembly.

SEC. 21. The general assembly shall meet annually, on such day as may be by law prescribed, and shall not remain in session longer than thirty days, except by a vote of two-thirds of each house.

SEC. 22. In all elections by the general assembly, the members shall vote *viva voce*, and the votes shall be entered on the journals.

SEC. 23. All State officers may be impeached for any misdemeanor in office, but judgment shall not extend further than removal from office, and disqualification to hold office, under the authority of this State. The party impeached, whether convicted or not, shall be liable to indictment, trial and judgment, according to law.

SEC. 24. The house of representatives shall have the sole power of preferring impeachment. All impeachments shall be tried by the senate; the senators, when sitting for that purpose, shall be on oath or affirmation; and no person shall be convicted under an impeachment without the concurrence of two-thirds of the senators present.

SEC. 25. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties who may choose that mode of adjustment.

SEC. 26. It shall be the duty of the general assembly, from time to time, as circumstances may require, to frame and adopt a penal code founded on principles of reformation.

SEC. 27. It shall be the duty of the general assembly, within five years after the adoption of this constitution, and within every subsequent period of ten years, to make provision by law for the revision, digesting and promulgation of all the public statutes of this State, both civil and criminal.

SEC. 28. The general assembly shall have power to pass such penal laws as they may deem expedient, to suppress the evil practice of duelling.

SEC. 29. It shall be the duty of the general assembly to regulate by law the cases in which deductions shall be made from the salaries of public officers for neglect of duty in their official capacities, and the amount of such deductions.

SEC. 30. Divorces from the bonds of matrimony shall not be granted but in cases by law provided for, and by suit in chancery; but decisions in chancery for divorce shall be final, unless appealed from in the manner prescribed by law, within three months from the date of the enrolment thereof.

SEC. 31. No money shall be drawn from the treasury but in pursuance of an appropriation made by law; and a regular statement and account of receipts and expenditures of all public moneys shall be published annually, in such manner as may be by law directed.

SEC. 32. The general assembly shall not borrow or raise money on the credit of this State, except for purposes of military defence against actual or threatened invasion, rebellion or insurrection, without the concurrence of two-thirds of the members of each house; nor shall the debts or liabilities of any corporation, person or persons, or other

States be guaranteed, nor any money, credit or other thing be loaned or given away, except by a like concurrence of each house; and the votes shall, in each case, be taken by the yeas and nays, and be entered on the journals.

SEC. 33. The State shall not engage in works of internal improvement; but its credit in aid of such may be pledged by the general assembly on undoubted security, by a vote of two-thirds of each house of the general assembly.

SEC. 34. It shall be the duty of the general assembly to make adequate provisions in each county for the maintenance of the poor of this State.

SEC. 35. Any citizen of this State who shall, after the adoption of this constitution, either in or out of this State, fight a duel with deadly weapons, or send, or accept a challenge so to do, or act as a second, or knowingly aid or assist in any manner those thus offending, shall be incapable of holding any office under this State.

SEC. 36. The general assembly shall not have power to authorize any municipal corporation to pass any laws contrary to the general laws of the State, nor to levy a tax on real and personal property to a greater extent than two per centum of the assessed value of such property.

SEC. 37. In the event of annexation of any foreign territory to this State, the general assembly shall enact laws extending to the inhabitants of the acquired territory all the rights and privileges which may be required by the terms of the acquisition, anything in this constitution to the contrary notwithstanding.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor, treasurer, and attorney-general, who shall be chosen by the electors of the State, at the time and places at which they shall vote for representatives.

SEC. 2. The governor, lieutenant-governor, secretary of state, treasurer, and attorney-general shall hold their offices for the term of two years, and the auditor for the term of four years.

SEC. 3. The returns of every election for the officers named in the preceding section, shall be sealed up and transmitted to the seat of government, by the returning officers, directed to the presiding officer of the senate, who, during the first week of the session, shall open and publish the same in the presence of a majority of the members of the general assembly; the person having the highest number of votes shall be declared duly elected, but if two or more shall be highest and equal in votes for the same office, one of them shall be chosen by the joint vote of both houses. Contested elections for executive officers shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 4. The supreme executive power of this State shall be vested in the governor.

SEC. 5. He shall take care that the laws are faithfully executed.

SEC. 6. He may require information in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 7. He shall communicate at every session, by message to the general assembly, the condition of the State, and recommend such measures as he shall deem expedient.

SEC. 8. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purposes for which they have been convened.

SEC. 9. In case of disagreement between the two houses, in respect to the time of adjournment, he shall have power to adjourn the general assembly to such time as he may think proper, but not beyond the regular meetings thereof.

SEC. 10. He shall be commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States.

SEC. 11. He shall have power, after conviction, to grant reprieves, commutations and pardons for all offences, (except treason and cases of impeachment,) upon such conditions as he may think proper, subject, however, to such regulations as to the

manner of applying for pardons as may be prescribed by law; but such pardons shall not relieve from civil or political disability. Upon conviction of treason, he may suspend the execution of the sentence, and report the same to the general assembly at the next meeting, when the general assembly shall either pardon, commute the sentence, direct its execution, or grant further reprieve. He shall communicate to the general assembly, at every regular session, each case of reprieve, commutation, or pardon granted, stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon or reprieve, with his reasons therefor.

SEC. 12. There shall be a great seal of the State, which shall be kept and used by the governor officially; and the seal heretofore in use, shall continue to be the great seal of the State until another shall have been adopted by the general assembly.

SEC. 13. All grants and commissions shall be issued in the name and by the authority of the State of Alabama, sealed with the great seal, signed by the governor, and countersigned by the secretary of state.

SEC. 14. No member of Congress, or other person, holding office under the authority of this State, or of the United States, shall execute the office ot governor, except as herein provided.

SEC. 15. In case of the death, impeachment, resignation, removal, or other disability of the governor, the powers and duties of the office, for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant-governor.

SEC. 16. The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided; and in case of his absence or impeachment, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

SEC. 17. If the lieutenant-governor, while executing the office of governor, shall be impeached, displaced, resign or die, or otherwise become incapable of performing the duties of the office, the president of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president of the senate for any of the above causes shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 18. Should the office of secretary of state, auditor, treasurer, or attorney-general become vacant from any of the causes specified in the fifteenth section of this article, the governor shall fill the vacancy until the disability is removed, or a successor elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after it shall have occurred, and the person chosen shall hold the office for the full term fixed in the second section of this article.

SEC. 19. The officers mentioned in this article shall, at stated times, receive for their services a compensation to be established by law, which shall neither be increased or diminished during the period for which they shall have been elected.

SEC. 20. The officers of the executive department, and of the public institutions of the State, shall, at least five days preceding each regular session of the general assembly, severally report to the governor, who shall transmit such reports with his message to the general assembly.

SEC. 21. A sheriff shall be elected in each county by the qualified electors thereof, who shall hold his office for the term of three years, unless sooner removed, and shall not be eligible to serve either as principal or deputy for any two successive terms. Vacancies in the office of sheriff shall be filled by the governor as in other cases; and the person appointed shall continue in office until the next general election in the county for sheriff, as by law provided.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State shall be vested in the senate sitting as a court of impeachment, a supreme court, circuit courts, chancery courts, courts of probate, such inferior courts of law and equity, to consist of not more than five

members, as the general assembly may from time to time establish, and such persons as may be by law invested with powers of a judicial nature.

SEC. 2. Except in cases otherwise directed in the constitution, the supreme court shall have appellate jurisdiction only, which shall be coextensive with the State, under such restrictions and regulations not repugnant to this constitution, as may from time to time be prescribed by law: *Provided*, That said court shall have power to issue writs of injunction, *mandamus*, *habeas corpus*, *quo warranto*, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdiction.

SEC. 3. The supreme court shall be held at the seat of government, but if that shall have become dangerous from an enemy, or from disease, it may adjourn to a different place.

SEC. 4. The State shall be divided by the general assembly into convenient circuits, each of which shall contain not less than three nor more than eight counties; and for each circuit there shall be chosen a judge, who shall, after his election or appointment, reside in the circuit for which he shall have been chosen.

SEC. 5. The circuit court shall have original jurisdiction in all matters, civil and criminal, within the State, not otherwise excepted in the constitution, but in civil cases only when the matter or sum in controversy exceeds fifty dollars: *Provided, however*, That the circuit court shall have equity jurisdiction concurrent with the courts of chancery in all cases for divorce, and cases in which the value of the matter in controversy does not exceed the sum of five thousand dollars.

SEC. 6. A circuit court shall be held in each county in the State at least twice in every year, and the judges of the several circuits may hold courts for each other when they deem it expedient, and shall do so when directed by law: *Provided*, That the judges of the several circuit courts shall have power to issue writs of injunction returnable into courts of chancery.

SEC. 7. The general assembly shall have power to establish a court or courts of chancery with original and appellate jurisdiction. The State shall be divided by the general assembly into convenient chancery divisions, and the divisions into districts; and for each division there shall be a chancellor, who shall, after his election or appointment, reside in the division for which he shall have been elected or appointed.

SEC. 8. A chancery court shall be held in each county at a place therein to be fixed by law, and the chancellors may hold courts for each other, when they deem it expedient.

SEC. 9. The general assembly shall have power to establish in each county within the State a court of probate, with general jurisdiction for the granting of letters testamentary and of administration, and for orphans' business; and the general assembly may confer on the said courts, jurisdiction of contracts for labor, and order frequent sessions for that purpose.

SEC. 10. The judges of the supreme court, circuit courts, and courts of chancery, shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office; but they shall receive no fees or perquisites, nor hold any office (except judicial offices) of profit or trust under this State, or the United States, during the term for which they have been elected, nor under any other power during their continuance in office.

SEC. 11. Judges of the supreme court, and chancellors, and judges of the circuit and probate courts, and of such other inferior courts as may be by law established, shall be elected by the qualified electors of the respective counties, cities, towns or districts, for which said courts may be established, on the Tuesday after the first Monday in November of each year, or such other day as may be by law prescribed. Vacancies in the office of the circuit judge, judge of probate, or judge of any other inferior court established by law, shall be filled by the governor; and the person appointed by him shall hold office until the next election day appointed by law for election of judge, and until his successor shall have been elected and qualified.

SEC. 12. The judges of the several courts of this State shall hold their office for the term of six years; and the right of any judge to hold his office for the full term hereby prescribed, shall not be affected by any change hereafter made by law in any circuit or district, or in the mode or time of election; but for any wilful neglect of

duty, or any other reasonable cause which shall not be a sufficient ground of impeachment, the governor shall remove any judge on the address of two-thirds of each house of the general assembly: *Provided*, That the cause or causes for which said removal may be required, shall be stated at length in such address, and entered on the journals of each house: *And provided further*, That the judge intended to be removed shall be notified of such cause or causes, and shall be admitted to a hearing in his own defence, before any vote for such address; and in all such cases the vote shall be taken by yeas and nays, and be entered on the journal of each house respectively.

SEC. 13. A competent number of justices and constables shall be elected in and for each county by the qualified electors thereof, who shall hold office during such terms as may be prescribed by law. Said justices shall have jurisdiction in all civil cases wherein the amount in controversy does not exceed one hundred dollars. In all cases tried before such justices the right of appeal shall be secured by law: *Provided*, That notaries public appointed according to law shall be authorized and required to exercise, throughout their respective counties, all the powers and jurisdiction of justices of the peace.

SEC. 14. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the State; as also the judges of the circuit courts within their respective circuits, and the judges of the inferior courts within their respective counties.

SEC. 15. The clerk of the supreme court shall be appointed by the judges thereof; registers in chancery, by the chancellors of the divisions; and all the clerks and registers so appointed shall be removed by the appointing power for cause to be placed on the records of the court.

SEC. 16. The attorney-general shall reside at the seat of government, and shall be the law-officer of the State. During the session of the general assembly, he shall furnish to the committees of either house, when required, draughts of bills and written opinions upon any matter under consideration of the committees, and shall perform such other duties as may be required of him by law.

SEC. 17. A solicitor shall be elected in each county in this State by the qualified electors of such county, who shall reside in the county for which he is elected, and perform such duties as may be required of him by law. He shall hold office for a term of four years, and in case of vacancy, such vacancy shall be filled by the judge of the circuit until his successor is elected and qualified.

SEC. 18. Clerks of the circuit court, and such inferior courts as may be by law established, shall be elected by the qualified electors in each county, for the term of six years, and may be removed from office for cause, and in such manner as may be by law prescribed. Vacancies in the office of clerk shall be filled by the judge of the circuit, until the next general election, and until a successor shall be elected and qualified: *Provided*, That the general assembly shall have power to annex the duties of clerk to the office of judge of any of the inferior courts by law established.

SEC. 19. The style of all processes shall be "*The State of Alabama*," and all prosecutions shall be carried on in the name and by the authority of the State of Alabama, and shall conclude "against the peace and dignity of the same."

ARTICLE VII.

ELECTIONS.

SECTION 1. In all elections by the people, the electors shall vote by ballot.

SEC. 2. Every male person, born in the United States, and every male person who has been naturalized, or who has legally declared his intention to become a citizen of the United States, twenty-one years old or upward, who shall have resided in this State six months next preceding the election, and six months in the county in which he offers to vote, except as hereinafter provided, shall be deemed an elector: *Provided*, That no soldier, or sailor, or marine in the military or naval service of the United States, shall hereafter acquire a residence by reason of being stationed on duty in this State.



SEC. 3. It shall be the duty of the general assembly to provide, from time to time, for the registration of all electors; but the following class of persons shall not be permitted to register, vote or hold office: 1st. Those who, during the late rebellion, inflicted, or caused to be inflicted, any cruel or unusual punishment upon any soldier, sailor, marine, employé or citizen of the United States, or who in any other way violated the rules of civilized warfare. 2d, Those who may be disqualified from holding office by the proposed amendment to the Constitution of the United States, known as "Article XIV," and those who have been disqualified from registering to vote for delegates to the convention to frame a constitution for the State of Alabama, under the act of Congress "to provide for the more efficient government of the rebel States," passed by Congress March 2, 1867, and the act supplementary thereto, except such persons as aided in the reconstruction proposed by Congress, and accept the political equality of all men before the law: *Provided*, That the general assembly shall have power to remove the disabilities incurred under this clause. 3d, Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crime punishable by law with imprisonment in the penitentiary, or bribery. 4th, Those who are idiots or insane.

SEC. 4. All persons, before registering, must take and subscribe the following oath: I, ——— ———, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the constitution and laws of the State of Alabama; that I am not excluded from registering by any of the clauses in section 3, Article VII, of the constitution of the State of Alabama; that I will never countenance or aid in the secession of this State from the United States; that I accept the civil and political equality of all men; and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity, enjoyed by any other class of men; and furthermore, that I will not in any way injure, or countenance in others any attempt to injure, any person or persons, on account of past or present support of the Government of the United States, the laws of the United States, or the principle of the civil and political equality of all men, or for affiliation with any political party.

SEC. 5. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest and civil process during their attendance at elections, and in going to and returning from the same.

SEC. 6. It shall be the duty of the general assembly to enact adequate laws giving protection against the evils arising from the use of intoxicating liquors at elections.

SEC. 7. Returns of elections for all civil officers elected by the people, who are to be commissioned by the governor, and also for the members of the general assembly, shall be made to the secretary of state.

ARTICLE VIII.

REPRESENTATION.

SECTION 1. The house of representatives shall consist of not more than one hundred members, who shall be apportioned by the general assembly among the several counties of the State, according to the number of inhabitants in them respectively; and to this end the general assembly shall cause an enumeration of all the inhabitants of the State to be made in the year 1875, and every ten years thereafter, and shall make an apportionment of the representatives among the several counties at the first regular session after each enumeration; which apportionment, when made, shall not be subject to alteration until after the next census shall have been taken: *Provided*, That each county shall be entitled to at least one representative: *And provided, further*, That when two or more adjoining counties shall each have a residuum, or fraction over and above the ratio then fixed by law, which fractions, when added together, equal, or exceed that ratio, in that case the county having the largest fraction shall be entitled to one additional representative.

SEC. 2. Until the general assembly shall make an apportionment of the representatives among the several counties, after the first enumeration made as herein provided,

the counties of Autauga, Baldwin, Bibb, Blount, Butler, Calhoun, Clay, Clarke, Cherokee, Cleburne, Crenshaw, Choctaw, Coffee, Conecuh, Coosa, Covington, Dale, De Kalb, Elmore, Fayette, Henry, Jefferson, Lauderdale, Limestone, Marshall, Marion, Monroe, Morgan, Pike, Randolph, Saint Clair, Shelby, Walker, Washington and Winston, shall have one representative each; the counties of Chambers, Franklin, Greene, Hale, Jackson, Lee, Lawrence, Macon, Pickens, Russell, Talladega, Tallapoosa and Tuscaloosa, shall be entitled to two representatives each; the counties of Barbour, Bullock, Lowndes, Madison, Marengo, Perry, Sumter and Wilcox, shall be entitled to three representatives each; the counties of Dallas, Mobile and Montgomery, shall be entitled to five representatives each: *Provided*, That in the formation of new counties, the general assembly may apportion to each its proper representation.

SEC. 3. The whole number of senators shall be not less than one-fourth or more than one-third of the whole number of representatives; and it shall be the duty of the general assembly, at its first session after the making of each enumeration, as provided by section first of this article, to fix by law the number of senators, and to divide the State into as many senatorial districts as there are senators; which districts shall be as nearly equal to each other as may be in the number of inhabitants, and each shall be entitled to one senator, and no more: *Provided*, That no county shall be divided, and no two or more counties, which are separated entirely by a county belonging to another district, shall be joined in one district: *And provided, further*, That the senatorial districts, when formed, shall not be changed until after the next enumeration shall have been taken.

SEC. 4. At the first general election after each new apportionment, elections shall be held anew in all the senatorial districts. The senators elected, when convened at the next ensuing session of the general assembly, shall be divided by lot into two classes, as nearly equal as may be; the seats of the senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years, from the day of election, so that (except as above provided,) one-half of the senators may be chosen biennially.

SEC. 5. Until the general assembly shall divide the State into senatorial districts as herein provided, the senatorial districts shall remain as follows: 1st district, Limestone and Lauderdale; 2d, Franklin and Lawrence; 3d, Morgan, Blount, Winston and Marion; 4th, Madison; 5th, Jackson, Marshall and De Kalb; 6th, Cherokee and Calhoun; 7th, Walker, Jefferson and Saint Clair; 8th, Shelby and Bibb; 9th, Tuscaloosa and Fayette; 10th, Talledega and Clay; 11th, Chambers, Randolph and Cleburne; 12th, Coosa and Tallapoosa; 13th, Lee; 14th, Macon; 15th, Russell; 16th, Bullock; 17th, Barbour; 18th, Autauga and Elmore; 19th, Montgomery; 20th, Lowndes; 21st, Dallas; 22d, Perry; 23d, Hale; 24th, Greene and Pickens; 25th, Sumter; 26th, Marengo; 27th, Choctaw, Clarke and Washington; 28th, Mobile; 29th, Monroe and Baldwin; 30th, Wilcox; 31st, Butler and Conecuh; 32d, Covington, Crenshaw and Pike; 33d, Coffee, Dale and Henry.

SEC. 6. Until a new apportionment of representatives to the Congress of the United States shall have been made, the congressional districts shall remain as stated in the Revised Code of Alabama, and after each new apportionment, the general assembly shall divide the State into as many districts as it is allowed Representatives in Congress, making such congressional districts as nearly equal in the number of inhabitants as may be.

ARTICLE IX.

TAXATION.

SECTION 1. All taxes levied on property in this State, shall be assessed in exact proportion to the value of such property: *Provided, however*, That the general assembly may levy a poll-tax not to exceed one dollar and fifty cents on each poll, which shall be applied exclusively in aid of the public-school fund.

SEC. 2. No power to levy taxes shall be delegated to individuals or private corporations.



ARTICLE X.

MILITIA.

SECTION 1. All able-bodied male inhabitants of this State, between the ages of eighteen years and forty-five years, who are citizens of the United States, or who have declared their intention to become citizens of the United States, shall be liable to military duty in the militia of this State; but all citizens of any denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be exempt therefrom upon such conditions as may be prescribed by law.

SEC. 2. The general assembly shall provide for the organizing, arming, equipping, and discipline of the militia, and for paying the same, when called into active service, in such manner as it shall deem expedient, not incompatible with the laws of the United States.

SEC. 3. Officers of the militia shall be elected or appointed and commissioned in such manner as may be provided by the general assembly.

SEC. 4. The governor shall be commander-in-chief of the army and navy of this State, and of the militia, except when called into the service of the United States, and shall have power to call forth the militia to execute the laws, to suppress riots, or insurrections, and to repel invasion.

SEC. 5. The governor shall nominate, and, by and with the consent of the senate, appoint one major-general and three brigadier-generals. The adjutant-general, and other staff officers to the commander-in-chief, shall be appointed by the governor, and their commissions shall expire with the governor's term of office. No commissioned officer shall be removed from office except by the senate, on the recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial pursuant to law.

SEC. 6. The militia may be divided into two classes, to be designated as "volunteer militia" and "reserve militia," in such manner as shall be provided by law.

SEC. 7. The militia shall, in all cases, except felony, treason, or breach of the peace, be privileged from arrest during their attendance at musters and elections of officers, and in going to and returning from the same.

SEC. 8. The officers and men commissioned and organized shall not be entitled to receive any pay, rations, or emoluments when not in active service.

ARTICLE XI.

EDUCATION.

SECTION 1. The common schools, and other educational institutions of the State, shall be under the management of a board of education, consisting of a superintendent of public instruction and two members from each congressional district.

The governor of the State shall be, *ex officio*, a member of the board, but shall have no vote in its proceedings.

SEC. 2. The superintendent of public instruction shall be president of the board of education, and have the casting vote in case of a tie; he shall have the supervision of the public schools of the State, and perform such other duties as may be imposed upon him by the board and the laws of the State. He shall be elected in the same manner and for the same term as the governor of the State, and receive such salary as may be fixed by law. An office shall be assigned him in the capitol of the State.

SEC. 3. The members of the board shall hold office for a term of four years, and until their successors shall be elected and qualified. After the first election under the constitution, the board shall be divided into two equal classes, so that each class shall consist of one member from each district. The seats of the first class shall be vacated at the expiration of two years from the day of election, so that one-half may be chosen biennially.

SEC. 4. The members of the board of education, except the superintendent, shall be elected by the qualified electors of the congressional districts in which they are chosen, at the same time and in the same manner as the members of Congress.

SEC. 5. The board of education shall exercise full legislative powers in reference

to the public educational institutions of the State, and its acts, when approved by the governor, or when re-enacted by two-thirds of the board, in case of his disapproval, shall have the force and effect of law, unless repealed by the general assembly.

SEC. 6. It shall be the duty of the board to establish, throughout the State, in each township or other school-district which it may have created, one or more schools, at which all the children of the State between the ages of five and twenty-one years may attend free of charge.

SEC. 7. No rule or law affecting the general interest of education shall be made by the board without the concurrence of a majority of its members. The style of all acts of the board shall be, "*Be it enacted by the board of education of the State of Alabama.*"

SEC. 8. The board of education shall be a body politic and corporate, by the name and style of "The board of education of the State of Alabama." Said board shall also be a board of regents of the State University, and when sitting as a board of regents of the university shall have power to appoint the president and the faculties thereof. The president of the university shall be, *ex officio*, a member of the board of regents, but shall have no vote in its proceedings.

SEC. 9. The board of education shall meet annually at the seat of government at the same time as the general assembly, but no session shall continue longer than twenty days, nor shall more than one session be held in the same year, unless authorized by the governor. The members shall receive the same mileage and daily pay as the members of the general assembly.

SEC. 10. The proceeds of all lands that have been or may be granted by the United States to the State for educational purposes; of the swamp-lands; and of all lands or other property given by individuals or appropriated by the State for like purposes; and of all estates of deceased persons who have died without leaving a will or heir; and all moneys which may be paid as an equivalent for exemption from military duty, shall be and remain a perpetual fund, which may be increased but not diminished, and the interest and income of which, together with the rents of all such lands as may remain unsold, and such other means as the general assembly may provide, shall be inviolably appropriated to educational purposes, and to no other purpose whatever.

SEC. 11. In addition to the amount accruing from the above sources, one-fifth of the aggregate annual revenue of the State shall be devoted exclusively to the maintenance of public schools.

SEC. 12. The general assembly may give power to the authorities of the school-districts to levy a poll-tax on the inhabitants of the district in aid of the general school-fund, and for no other purpose.

SEC. 13. The general assembly shall levy a specific annual tax upon all railroad, navigation, banking, and insurance corporations, and upon all insurance and foreign bank and exchange agencies, and upon the profits of foreign bank bills issued in this State by any corporation, partnership or persons, which shall be exclusively devoted to the maintenance of public schools.

SEC. 14 The general assembly shall, as soon as practicable, provide for the establishment of an agricultural college, and shall appropriate the two hundred and forty thousand acres of land donated to this State for the support of such a college, by the act of Congress, passed July 2, 1862, or the money or scrip, as the case may be, arising from the sale of said land, or any lands which may hereafter be granted or appropriated for such purpose, for the support and maintenance of such college, or schools, and may make the same a branch of the University of Alabama for instruction in agriculture, in the mechanic arts, and the natural sciences connected therewith, and place the same under the supervision of the regents of the university.

ARTICLE XII.

INDUSTRIAL RESOURCES.

SECTION 1. A bureau of industrial resources shall be established, to be under the management of a commissioner, who shall be elected at the first general election, and shall hold his office for the term of four years.



SEC. 2. The commissioner of industrial resources shall collect and condense statistical information concerning the productive industries of the State; and shall make, or cause to be made, a careful, accurate, and thorough report upon the agriculture and geology of the State, and annually report such additions as the progress of scientific development and extended explorations may require. He shall, from time to time, disseminate among the people of the State such knowledge as he may deem important, concerning improved machinery and production, and for the promotion of their agricultural, manufacturing, and mining interests; and shall send out to the people of the United States and foreign countries such reports concerning the industrial resources of Alabama as may best make known the advantages offered by the State to emigrants; and shall perform such other duties as the general assembly may require.

SEC. 3. It shall be the duty of the general assembly, at the first session after the adoption of this constitution, to pass such laws and regulations as may be necessary for the government and protection of this bureau, and also to fix and provide for the compensation of the commissioner.

SEC. 4. This bureau shall be located, and the commissioner shall reside at the capital of the State, and he shall annually make a written or printed report to the governor of the State, to be laid before the general assembly at each session.

SEC. 5. In case of the death, removal, or resignation of the commissioner, the governor, with the approval of the senate, shall have power to appoint a commissioner for the unexpired term.

ARTICLE XIII.

CORPORATIONS.

SECTION 1. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All general laws, and special acts passed pursuant to this section, may be altered, amended, or repealed.

SEC. 2. Dues from corporations shall be secured by such individual liabilities of the corporators or other means as may be prescribed by law.

SEC. 3. Each stockholder in any corporation shall be liable to the amount of stock held or owned by him.

SEC. 4. The property of corporations now existing, or hereafter created, shall forever be subject to taxation the same as property of individuals, except corporations for educational and charitable purposes.

SEC. 5. No right of way shall be appropriated to the use of any corporation, until full compensation therefor be first made in money, or secured by a deposit of money to the owner, irrespective of any benefit from any improvement proposed by such corporation; which compensation shall be ascertained by a jury of twelve men in a court of record, as shall be prescribed by law.

SEC. 6. The general assembly shall not have power to establish or incorporate any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit or bills payable to order or bearer, except under the conditions prescribed in this constitution.

SEC. 7. No bank shall be established, otherwise than under a general banking law, as provided in the first section of this article.

SEC. 8. The general assembly may enact a general banking law, which law shall provide for the registry and countersigning by the governor of the State of all paper-credit designed to be created as money; and ample collateral security, convertible into specie, or the redemption of the same in gold or silver, shall be required, and such collateral security shall be under the control of such officer or officers as may be prescribed by law.

SEC. 9. All bills or notes issued as money, shall be at all times redeemable in gold or silver, and no law shall be passed sanctioning, directly or indirectly, the suspension by any bank or banking company, of specie payment.

SEC. 10. Holders of bank-notes shall be entitled, in case of insolvency, to preference of payment over all other creditors.

SEC. 11. Every bank or banking company shall be required to cease all banking

operations within twenty years from the time of its organization, and promptly thereafter close its business.

SEC. 12. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals for lending money.

SEC. 13. The State shall not be a stockholder in any bank, nor shall the credit of the State ever be given or lent to any banking company, association, or corporation, except for the purpose of expediting the construction of railroads, or works of internal improvement, within the State, and the credit of the State shall, in no case, be given or lent without the approval of two-thirds of both houses of the general assembly.

SEC. 15. All corporations shall have the right to sue and shall be subject to be sued, in all courts, in like cases as natural persons.

SEC. 16. It shall be the duty of the general assembly to provide for the organization of cities and incorporated towns, and to restrict their power of taxation, assessment, and contracting of debt.

ARTICLE XIV.

EXEMPTED PROPERTY.

SECTION 1. The personal property of any resident of this State to the value of one thousand dollars, to be selected by such resident, shall be exempted from sale on execution, or other final process of any court, issued for the collection of any debt contracted after the adoption of this constitution.

SEC. 2. Every homestead, not exceeding eighty acres of land, and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any town, city, or village, or in lieu thereof, at the option of the owner, any lot in the city, town, or village, with the dwelling and appurtenances thereon, owned and occupied by any resident of this State, and not exceeding the value of two thousand dollars, shall be exempted from sale, on execution, or any other final process from a court, from any debt contracted after the adoption of this constitution. Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of such homestead, by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife of the same.

SEC. 3. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of any debts contracted after the adoption of this constitution, in all cases, during the minority of the children.

SEC. 4. The provisions of sections 1 and 2 of this article shall not be so construed as to prevent a laborers' lien for work done and performed for the person claiming such exemption, or a mechanics' lien for work done on the premises.

SEC. 5. If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt, and the rents and profits thereof shall inure to her benefit.

SEC. 6. The real and personal property of any female in this State, acquired before marriage, and all property, real and personal, to which she may afterward be entitled by gift, grant, inheritance, or devise, shall be and remain the separate estate and property of such female, and shall not be liable for any debts, obligations, and engagements of her husband, and may be devised or bequeathed by her the same as if she were a *femme sole*.

ARTICLE XV.

OATH OF OFFICE.

SECTION 1. All civil officers of this State, legislative, executive, and judicial, before they enter upon the execution of the duties of their respective offices, shall take the following oath:

I, —— ——, do solemnly swear (or affirm) that I am not disfranchised by the constitution of Alabama, or by the Constitution or laws of the United States; that I will honestly and faithfully support and defend the Constitution and laws of the United States, the Union of the States, and the constitution and laws of the State of Alabama, so long as I remain a citizen thereof; and that I will honestly and faithfully discharge the duties of the office upon which I am about to enter to the best of my ability. So help me God.



ARTICLE XVI.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. The general assembly, whenever two-thirds of each house shall deem it necessary, may propose amendments to this constitution, which proposed amendments shall be duly published in print at least three months before the next general election of representatives, for the consideration of the people; and it shall be the duty of the several returning officers at the next general election which shall be held for representatives, to open a poll for, and make a return to the secretary of state for the time being, of the names of all those voting for representative who have voted on such proposed amendments, and if thereupon it shall appear that a majority of all the citizens of the State voting for representatives have voted in favor of such proposed amendments, and two-thirds of each house of the next general assembly shall, after such an election, and before another, ratify the same amendments, by yeas and nays, they shall be valid to all intents and purposes, as part of this constitution: *Provided*, That the said proposed amendments shall, at each of the said sessions, have been read three times on three several days in each house.

After the expiration of twelve months from the adoption of this constitution, no convention shall be held for the purpose of altering or amending the constitution of this State, unless the question of convention or no convention shall be first submitted to a vote of all the electors, twenty-one years of age and upward, and approved by a majority of the electors voting at said election.

E. W. PECK, *President*.

ROBERT BARBER, *Secretary*.

CONSTITUTION OF ALABAMA—1875.*

PREAMBLE.

We, the people of the State of Alabama, in order to establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and to secure to ourselves and to our posterity life, liberty, and property, profoundly grateful to Almighty God for this inestimable right, and invoking His favor and guidance, do ordain and establish the following constitution and form of government for the State of Alabama.

ARTICLE I

DECLARATION OF RIGHTS.

That the great, general, and essential principles of liberty and free government may be recognized and established, we declare—

SECTION 1. That all men are equally free and independent; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness.

SEC. 2. That all persons resident in this State, born in the United States, or naturalized, or who shall have legally declared their intention to become citizens of the United States, are hereby declared citizens of the State of Alabama, possessing equal civil and political rights.

SEC. 3. That all political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit; and that, therefore,

* This constitution was framed by a convention which met at Montgomery September 6, 1875, and completed its labors October 2, 1875. It was submitted to the people of Alabama and ratified November 16, 1875, receiving 95,672 votes against 30,004 votes.

they have, at all times, an inalienable and indefeasible right to change their form of government, in such manner as they may deem expedient.

SEC. 4. That no religion shall be established by law; that no preference shall be given by law to any religious sect, society, denomination, or mode of worship; that no one shall be compelled by law to attend any place of worship, nor to pay any tithes, taxes, or other rate, for building or repairing any place of worship, or for maintaining any minister or ministry; that no religious test shall be required as a qualification to any office or public trust under this State; and that the civil rights, privileges, and capacities of any citizen shall not be in any manner affected by his religious principles.

SEC. 5. That any citizen may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

SEC. 6. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable seizures or searches, and that no warrant shall issue to search any place, or to seize any person or thing, without probable cause, supported by oath or affirmation.

SEC. 7. That in all criminal prosecutions the accused has a right to be heard by himself and counsel, or either; to demand the nature and cause of the accusation; to have a copy thereof; to be confronted by witnesses against him; to have compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment a speedy public trial by an impartal jury of the county or district in which the offence was committed; and that he shall not be compelled to give evidence against himself, nor be deprived of his life, liberty, or property, but by due process of law.

SEC. 8. That no person shall be accused or arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and no person shall be punished but by virtue of a law established and promulgated prior to the offence, and legally applied.

SEC. 9. That no person shall, for any indictable offence, be proceeded against criminally, by information, except in cases arising in the militia and volunteer forces when in actual service, or by leave of the court, for misfeasance, misdemeanor, extortion, and oppression in office, otherwise than as is provided in this constitution: *Provided*, That in cases of petit larceny, assault, assault and battery, affray, unlawful assemblies, vagrancy, and other misdemeanors, the general assembly may, by law, dispense with a grand jury, and authorize such prosecutions and proceedings before justices of the peace or such other inferior courts as may be by law established.

SEC. 10. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

SEC. 11. That no person shall be debarred from prosecuting or defending, before any tribunal in the State, by himself or counsel, any civil cause or proceeding to which he is a party.

SEC. 12. That the right of trial by jury shall remain inviolate.

SEC. 13. That in prosecutions for the publication of papers investigating the official conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and that in all indictments for libel the jury shall have the right to determine the law and the facts under the direction of the court.

SEC. 14. That all courts shall be open, and that every person, for any injury done him in his lands, goods, person, or reputation, shall have a remedy by due process of law; and right and justice shall be administered without sale, denial, or delay.

SEC. 15. The State of Alabama shall never be made defendant in any court of law or equity.

SEC. 16. That excessive fines shall not be imposed, nor cruel or unusual punishments inflicted.

SEC. 17. That all persons shall, before conviction, be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great. Excessive bail shall not, in any case, be required.

SEC. 18. The privilege of the writ of *habeas corpus* shall not be suspended by the authorities of this State.

SEC. 19. That treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and that no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 20. That no person shall be attainted of treason by the general assembly; and that no conviction shall work corruption of blood or forfeiture of estate.

SEC. 21. That no person shall be imprisoned for debt.

SEC. 22. That no power of suspending laws shall be exercised, except by the general assembly.

SEC. 23. That no *ex post facto* law, nor any law impairing the obligation of contracts, or making any irrevocable grants of special privileges or immunities, shall be passed by the general assembly.

SEC. 24. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the general assembly from taking the property and franchises of incorporated companies and subjecting them to public use the same as individuals. But private property shall not be taken for or applied to public use, unless just compensation be first made therefor; nor shall private property be taken for private use, or for the use of corporations, other than municipal, without the consent of the owners: *Provided, however*, That the general assembly may, by law, secure to persons or corporations the right of way over the lands of other persons or corporations, and by general laws provide for and regulate the exercise by persons and corporations of the rights herein reserved; but just compensation shall, in all cases, be first made to the owner: *And provided*, That the right of eminent domain shall not be so construed as to allow taxation or forced subscription for the benefit of railroads or any other kind of corporations other than municipal, or for the benefit of any individual or association.

SEC. 25. That all navigable waters shall remain forever public highways, free to the citizens of the State, and of the United States, without tax, impost, or toll, and that no tax, toll, impost, or wharfage shall be demanded or received from the owner of any merchandise or commodity, for the use of the shores, or any wharf erected on the shores, or in or over the waters of any navigable stream, unless the same be expressly authorized by law.

SEC. 26. That the citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the power of government for redress of grievances, or other purposes, by petition, address, or remonstrance.

SEC. 27. That every citizen has a right to bear arms in defence of himself and the State.

SEC. 28. That no standing army shall be kept up without the consent of the general assembly; and, in that case, no appropriation for its support shall be made for a longer term than one year; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

SEC. 29. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

SEC. 30. That no title of nobility, or hereditary distinction, privilege, honor, or emolument, shall ever be granted or conferred in this State; and that no office shall be created, the appointment to which shall be for a longer time than during good behavior.

SEC. 31. That immigration shall be encouraged, emigration shall not be prohibited, and no citizen shall be exiled.

SEC. 32. That temporary absence from the State shall not cause a forfeiture of residence once obtained.

SEC. 33. That no form of slavery shall exist in this State, and there shall be no involuntary servitude, otherwise than for the punishment of crime, of which the party shall have been duly convicted.

SEC. 34. The right of suffrage shall be protected by laws regulating elections, and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult, or other improper conduct.

SEC. 35. The people of this State accept as final the established fact that from the Federal Union there can be no secession of any State.

SEC. 36. Foreigners who are or may hereafter become *bona-fide* residents of this State shall enjoy the same rights, in respect to the possession, enjoyment, and inheritance of property, as native-born citizens.

SEC. 37. That the sole object and only legitimate end of government is to protect the citizen in the enjoyment of life, liberty, and property; and when the government assumes other functions it is usurpation and oppression.

SEC. 38. No educational or property qualification for suffrage or office, nor any restraint upon the same, on account of race, color, or previous condition of servitude, shall be made by law.

SEC. 39. That this enumeration of certain rights shall not impair or deny others retained by the people.

ARTICLE II.

STATE AND COUNTY BOUNDARIES.

SECTION 1. The boundaries of this State are established and declared to be as follows, that is to say: Beginning at the point where the 31st degree of north latitude crosses the Perdido River; thence east to the western boundary-line of the State of Georgia; thence along said line to the southern boundary-line of the State of Tennessee; thence west along the southern boundary-line of the State of Tennessee, crossing the Tennessee River, and on to the second intersection of said river by said line; thence up said river to the mouth of Big Bear Creek; thence by a direct line to the northwest corner of Washington County in this State, as originally formed; thence southerly along the line of the State of Mississippi to the Gulf of Mexico; thence eastwardly, including all islands within six leagues of the shore, to the Perdido River; thence up the said river to the beginning.

SEC. 2. The boundaries of the several counties of this State, as heretofore established by law, are hereby ratified and confirmed. The general assembly may, by a vote of two-thirds of both houses thereof, arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered, except by a like vote; but no new counties shall be hereafter formed of less extent than six hundred square miles, and no existing county shall be reduced to less extent than six hundred square miles, and no new county shall be formed which does not contain a sufficient number of inhabitants to entitle it to one representative, under the ratio of representation existing at the time of its formation, and leave the county or counties from which it is taken with the required number of inhabitants entitling such county or counties to separate representation.

ARTICLE III.

DISTRIBUTION OF POWERS OF GOVERNMENT.

SECTION 1. The powers of the government of the State of Alabama shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are legislative to one; those which are executive to another; and those which are judicial to another.

SEC. 2. No person or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives.

SEC. 2. The style of the laws of this State shall be, "*Be it enacted by the general assembly of Alabama;*" each law shall contain but one subject, which shall be clearly

expressed in its title, except general appropriation bills, general revenue bills, and bills adopting a code digest or revision of statutes; and no law shall be revived, amended, or the provisions thereof extended or conferred by reference to its title only; but so much thereof as is revived, amended, extended, or conferred, shall be re-enacted and published at length.

SEC. 3. Senators and representatives shall be elected by the qualified electors on the first Monday in August, 1876, and one-half of the senators and all the representatives shall be elected every two years thereafter, unless the general assembly shall change the time of holding elections. The terms of the office of the senators shall be four years, and that of the representatives two years, commencing on the day after the general election, except as otherwise provided in this constitution.

SEC. 4. Senators shall be at least 27 years of age, and representatives 21 years of age; they shall have been citizens and inhabitants of this State for three years, and inhabitants of their respective counties or districts one year next before their election, if such county or district shall have been so long established, but if not, then of the county or district from which the same shall have been taken; and they shall reside in their respective counties or districts during their terms of service.

SEC. 5. The general assembly shall meet biennially at the capitol, in the senate chamber and in the hall of the house of representatives, (except in cases of destruction of the capitol or epidemics, when the governor may convene them at such place in the State as he may deem best,) on the day specified in this constitution, or on such other day as may be prescribed by law, and shall not remain in session longer than sixty days at the first session held under this constitution, nor longer than fifty days at any subsequent session.

SEC. 6. The pay of the members of the general assembly shall be $4 per day, and 10 cents per mile in going to and returning from the seat of government, to be computed by the nearest usual route travelled.

SEC. 7. The general assembly shall consist of not more than thirty-three senators, and not more than one hundred members of the house of representatives, to be apportioned among the several districts and counties as prescribed in this constitution.

SEC. 8. The senate, at the beginning of each regular session, and at such other times as may be necessary, shall elect one of its members president thereof, and the house of representatives, at the beginning of each regular session, shall elect one of its members as speaker; and the president of the senate and the speaker of the house of representatives shall hold their offices respectively until their successors are elected and qualified. Each house shall choose its own officers, and shall judge of the election, returns, and qualifications of its members.

SEC. 9. At the general election in the year 1876, senators shall be elected in the even-numbered districts to serve for two years, and in the odd-numbered districts to serve for four years, so that thereafter one-half the senators may be chosen biennially. Members of the house of representatives shall be elected at the general election every second year. The time of service of senators and representatives shall begin on the day after their election, except the terms of those elected in 1876, which shall not begin until the term of the present members shall have expired. Whenever a vacancy shall occur in either house, the governor for the time being shall issue a writ of election to fill such vacancy for the remainder of the term.

SEC. 10. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under penalties as each house may provide.

SEC. 11. Each house shall have power to determine the rules of its proceedings, and punish its members or other persons for contempt or disorderly behavior in its presence, to enforce obedience to its process, to protect its members against violence, or offers of bribes or corrupt solicitation, and with the concurrence of two-thirds of either house to expel a member, but not a second time for the same cause; and shall have all the powers necessary for the legislature of a free State.

SEC. 12. A member of either house expelled for corruption shall not thereafter be eligible to either house; and punishment for contempt or disorderly behavior shall not bar an indictment for the same offence.

SEC. 13. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as in its judgment may require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-tenth of the members present, be entered on the journals. Any member of either house shall have liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journals.

SEC. 14. Members of the general assembly shall in all cases, except treason, felony, violation of their oath of office, and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same, and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 15. The doors of each house shall be open, except on such occasions as in the opinion of the house may require secrecy.

SEC. 16. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 17. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such office as may be filled by election by the people.

SEC. 18. No person hereafter convicted of embezzlement of public money, bribery, perjury, or other infamous crime, shall be eligible to the general assembly, or capable of holding any office of trust or profit in this State.

SEC. 19. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

SEC. 20. No bill shall become a law until it shall have been referred to a committee of each house and returned therefrom.

SEC. 21. Every bill shall be read on three different days in each house, and no bill shall become a law unless on its final passage it be read at length and the vote be taken by yeas and nays, the names of the members voting for and against the same be entered on the journals, and a majority of each house be recorded thereon as voting in its favor, except as otherwise provided in this constitution.

SEC. 22. No amendment to bills by one house shall be concurred in by the other except by a vote of a majority thereof, taken by yeas and nays, and the names of those voting for and against recorded upon the journals; and reports of committees of conference shall in like manner be adopted in each house.

SEC. 23. No special or local law shall be enacted for the benefit of individuals or corporations in cases which are or can be provided for by a general law, or where the relief sought can be given by any court of this State. Nor shall the operation of any general law be suspended by the general assembly for the benefit of any individual, corporation, or association.

SEC. 24. No local or special law shall be passed on a subject which cannot be provided for by a general law, unless notice of the intention to apply therefor shall have been published in the locality where the matter or things to be affected may be situated, which notice shall be at least twenty days prior to the introduction into the general assembly of such bill; the evidence of such notice having been given shall be exhibited to the general assembly before such act shall be passed: *Provided*, That the provisions of this constitution as to special or local laws shall not apply to public or educational institutions of or in this State, nor to industrial, mining, immigration, or manufacturing corporations or interests, or corporations for constructing canals, or improving navigable rivers and harbors of this State.

SEC. 25. The general assembly shall pass general laws, under which local and private interests shall be provided for and protected.

SEC. 26. The general assembly shall have no power to authorize lotteries or gift-enterprises for any purpose, and it shall pass laws to prohibit the sale of lottery or gift-enterprise tickets, or tickets in any scheme in the nature of a lottery, in this State, and all acts or parts of acts heretofore passed by the general assembly of this State,

authorizing a lottery or lotteries, and all acts amendatory thereof or supplemental thereto, are hereby avoided.

SEC. 27. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the general assembly, after the titles have been publicly read immediately before signing, and the fact of signing shall be entered on the journal.

SEC. 28. The general assembly shall prescribe by law the number, duties, and compensation of the officers and employés of each house, and no payment shall be made from the State treasury, or be in any way authorized, to any person, except to an acting officer or employé, elected or appointed in pursuance of law.

SEC. 29. No bill shall be passed giving any extra compensation to any public officer, servant, or employé, agent or contractor, after the services shall have been rendered, or contract made; nor shall any officer of the State bind the State to the payment of any sum of money but by authority of law.

SEC. 30. All stationery, printing, paper, and fuel used in the legislative and other departments of government shall be furnished, and the printing, binding, and distribution of laws, journals, department reports, and all other printing and binding, and repairing and furnishing the halls and rooms used for the meetings of the general assembly and its committees, shall be performed under contract, to be given to the lowest responsible bidder below a maximum price, and under such regulations as shall be prescribed by law; no member or officer of any department of the government shall be in any way interested in such contracts, and all such contracts shall be subject to the approval of the governor, State auditor, and State treasurer.

SEC. 31. All bills for raising revenues shall originate in the house of representatives, but the senate may propose amendments as in other bills.

SEC. 32. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative, and judicial departments of the State, interest on the public debt, and for the public schools; all other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 33. No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof, and a regular statement and account of receipts and expenditures of all public moneys shall be published annually in such manner as may be by law directed.

SEC. 34. No appropriation shall be made to any charitable or educational institution not under the absolute control of the State, other than normal schools established by law for the professional training of teachers for the public schools of the State, except by a vote of two-thirds of all the members elected to each house.

SEC. 35. No act of the general assembly shall authorize the investment of any trust-funds by executors, administrators, guardians, and other trustees, in the bonds or stock of any private corporation; and any such acts now existing are avoided, saving investments heretofore made.

SEC. 36. The power to change the venue in civil and criminal causes is vested in the courts, to be exercised in such manner as shall be provided by law.

SEC. 37. When the general assembly shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the governor calling such session.

SEC. 38. No State office shall be continued or created for the inspection or measuring of any merchandise, manufacture, or commodity, but any county or municipality may appoint such officers when authorized by law.

SEC. 39. No act of the general assembly changing the seat of government of the State shall become a law until the same shall have been submitted to the qualified electors of the State at a general election, and approved by a majority of such electors voting upon the same, and such act shall specify the proposed new location.

SEC. 40. A member of the general assembly who shall corruptly solicit, demand, or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation, or person, any money, office, appointment, employment, reward, thing of value or enjoyment, or of personal advantage, or promise thereof, for his vote or official influence, or for withholding the same, or with an understand-

ing, expressed or implied, that his vote or official action shall be in any way influenced thereby, or who shall solicit or demand any such money or other advantage, matter, or thing aforesaid, for another, as the consideration of his vote or official influence, or for withholding the same, or shall give or withhold his vote or influence in consideration of the payment or promise of such money, advantage, matter, or thing to another, shall be guilty of bribery within the meaning of this constitution, and shall incur the disabilities provided thereby for such offence, and such additional punishment as is or shall be provided by law.

SEC. 41. Any person who shall, directly or indirectly, offer, give, or promise any money or thing of value, testimonial, privilege, or personal advantage to any executive or judicial officer, or member of the general assembly, to influence him in the performance of any of his public or official duties, shall be guilty of bribery, and be punished in such manner as shall be provided by law.

SEC. 42. The offence of corrupt solicitation of members of the general assembly, or of public officers of this State, or of any municipal division thereof, and any occupation or practice of solicitation of such member or officers to influence their official action shall be defined by law, and shall be punished by fine and imprisonment.

SEC. 43. A member of the general assembly who has a personal or private interest in any measure or bill, proposed or pending before the general assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon.

SEC. 44. In all elections by the general assembly the members shall vote *viva voce*, and the votes shall be entered on the journals.

SEC. 45. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties who may choose that mode of adjustment.

SEC. 46. It shall be the duty of the general assembly, at its first session after the ratification of this constitution, and within every subsequent period of ten years, to make provision by law for the revision, digesting, and promulgation of the public statutes of this State of a general nature, both civil and criminal.

SEC. 47. The general assembly shall pass such penal laws as they may deem expedient to suppress the evil practice of duelling.

SEC. 48. It shall be the duty of the general assembly to regulate by law the cases in which deductions shall be made from the salaries of public officers for neglect of duty in their official capacities, and the amount of such deductions.

SEC. 49. It shall be the duty of the general assembly to require the several counties of this State to make adequate provision for the maintenance of the poor.

SEC. 50. The general assembly shall not have power to authorize any municipal corporation to pass any laws inconsistent with the general laws of this State.

SEC. 51. In the event of annexation of any foreign territory to this State, the general assembly shall enact laws extending to the inhabitants of the acquired territory all the rights and privileges which may be required by the terms of the acquisition, anything in this constitution to the contrary notwithstanding.

SEC. 52. The general assembly shall not tax the property, real and personal, of the State, counties, or other municipal corporations, or cemeteries; nor lots in incorporated cities or towns, or within one mile of any city or town, to the extent of one acre, nor lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, when the same are used exclusively for religious worship, for schools, or for purposes purely charitable; nor such property, real or personal, to an extent not exceeding twenty-five thousand dollars in value, as may be used exclusively for agricultural or horticultural associations of a public character.

SEC. 53. The general assembly shall by law prescribe such rules and regulations as may be necessary to ascertain the value of personal and real property exempted from sale under legal process by this constitution, and to secure the same to the claimant thereof as selected.

SEC. 54. The State shall not engage in works of internal improvement, nor lend money or its credit in aid of such; nor shall the State be interested in any private or corporate enterprise, or lend money or its credit to any individual, association, or corporation.

SEC. 55. The general assembly shall have no power to authorize any county, city, town, or other subdivision of this State to lend its credit, or to grant public money or thing of value in aid of, or to any individual, association, or corporation whatsoever, or to become a stockholder in any such corporation, association, or company, by issuing bonds or otherwise.

SEC. 56. There can be no law of this State impairing the obligation of contracts by destroying or impairing the remedy for their enforcement; and the general assembly shall have no power to revive any right or remedy which may have become barred by lapse of time or by any statute of this State.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department shall consist of a governor, secretary of state, State treasurer, State auditor, attorney-general, and superintendent of education, and a sheriff for each county.

SEC. 2. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled "The governor of the State of Alabama."

SEC. 3. The governor, secretary of state, State treasurer, State auditor, and attorney-general shall be elected by the qualified electors of this State, at the same time and places appointed for the election of members of the general assembly.

SEC. 4. The returns of every election for governor, secretary of state, State auditor, State treasurer, and attorney-general, shall be sealed up and transmitted by the returning-officers to the seat of government directed to the speaker of the house of representatives, who shall, during the first week of the session to which said returns shall be made, open and publish them in the presence of both houses of the general assembly in joint convention. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more shall have an equal and the highest number of votes for the same office, the general assembly, by joint vote, without delay, shall choose one of said persons for said office. Contested elections for governor, secretary of state, State auditor, State treasurer, and attorney-general shall be determined by both houses of the general assembly in such manner as may be prescribed by law.

SEC. 5. The governor, secretary of state, State treasurer, State auditor, and attorney-general shall hold their respective offices for the term of two years from the time of their installation in office and until their successors shall be elected and qualified.

SEC. 6. The governor shall be at least 30 years of age when elected, and shall have been a citizen of the United States ten years, and a resident citizen of this State at least seven years next before the day of his election.

SEC. 7. The governor, secretary of state, State treasurer, State auditor, and attorney-general, shall reside at the seat of government of this State during the time they continue in office, (except in case of epidemics;) and they shall receive compensation for their services, which shall be fixed by law, and which shall not be increased or diminished during the term for which they shall have been elected.

SEC. 8. The governor shall take care that the laws be faithfully executed.

SEC. 9. The governor may require information in writing, under oath, from the officers of the executive department on any subject relating to the duties of their respective offices; and he may at any time require information in writing, under oath, from all officers and managers of State institutions, upon any subject relating to the condition, management, and expenses of their respective offices and institutions; and any such officer or manager who makes a false report shall be guilty of perjury, and punished accordingly.

SEC. 10. The governor may, by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if, since their last adjournment, that shall have become dangerous from an enemy or from infectious or contagious diseases; and he shall state specifically in such proclamation each matter concerning which the action of that body is deemed necessary.

SEC. 11. The governor shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient, and at the commencement of each session of the general assembly, and at the close of his term of office, give information by written message of the condition of the State, and he shall account to the general assembly, as may be prescribed by law, for all moneys received and paid out by him from any funds subject to his order, with the vouchers therefor, and he shall at the commencement of each regular session present to the general assembly estimates of the amount of money required to be raised by taxation for all purposes.

SEC. 12. The governor shall have power to remit fines and forfeitures, under such rules and regulations as may be prescribed by law, and after conviction to grant reprieves, commutation of sentence, and pardons, (except in cases of treason and impeachment;) but pardons in cases of murder, arson, burglary, rape, assault with intent to commit rape, perjury, forgery, bribery, and larceny shall not relieve from civil and political disability unless specifically expressed in the pardon. Upon conviction of treason, the governor may suspend the execution of the sentence, and report the same to the general assembly at the next regular session, when the general assembly shall either pardon, commute the sentence, direct its execution, or grant further reprieve. He shall communicate to the general assembly at every regular session each case of reprieve, commutation, or pardon granted, with his reasons therefor; stating the name and crime of the convict, the sentence, its date, and the date of the reprieve, commutation, or pardon.

SEC. 13. Every bill, which shall have passed both houses of the general assembly, shall be presented to the governor; if he approve, he shall sign it, but if not, he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large upon the journals, and the house to which such bill shall be returned shall proceed to reconsider it; if, after such reconsideration, a majority of the whole number elected to that house shall vote for the passage of such bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by a majority of the whole number elected to that house, it shall become a law; but in such cases, the vote of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered upon the journals of each house respectively; if any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the general assembly by their adjournment prevent its return, in which case it shall not be a law. And every order, vote, or resolution, to which the concurrence of both houses may be necessary (except questions of adjournment, and of bringing on elections by the two houses, and of amending this constitution) shall be presented to the governor, and before the same shall take effect be approved by him, or being disapproved shall be repassed by both houses, according to the rules and limitations prescribed in the case of a bill.

SEC. 14. The governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriations disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto, and he shall, in writing, state specifically the item or items he disapproves.

SEC. 15. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, absence from the State, or other disability, the president of the senate shall exercise all the power and authority appertaining to the office of governor, until the time appointed for the election of governor shall arrive, or until the governor who is absent or impeached, shall return or be acquitted, or other disability be removed, and if during such vacancy in the office of governor, the president of the senate shall be impeached, removed from office, refuse to qualify, die, resign, be absent from the State, or be under any other disability, the speaker of the house of representatives shall in like manner administer the government. If the governor shall be absent from the State over twenty days, the secretary of state shall

notify the president of the senate, who shall enter upon the duties of governor, and if the governor and president of the senate shall both be absent from the State over twenty days, the secretary of state shall notify the speaker of the house of representatives, and in such case he shall enter upon and discharge the duties of governor, until the return of the governor or president of the senate.

SEC. 16. The president of the senate and speaker of the house of representatives shall, during the time they respectively administer the government, receive the same compensation which the governor would have received if he had been employed in the duties of his office: *Provided*, That if the general assembly shall be in session during such absence, they, or either of them, shall receive no compensation as members of the general assembly while acting as governor.

SEC. 17. No person shall, at one and the same time, hold the office of governor of this State and any other office, civil or military, either under this State, the United States, or any other State or government, except as otherwise provided in this constitution.

SEC. 18. The governor shall be commander-in-chief of the militia and volunteer forces of the State, except when they shall be called into the service of the United States, and he may call out the same to execute the laws, suppress insurrection, and repel invasion; but he need not command in person, unless directed to do so by a resolution of the general assembly, and when acting in the service of the United States he shall appoint his staff and the general assembly shall fix his rank.

SEC. 19. No person shall be eligible to the office of secretary of state, state treasurer, state auditor, or attorney-general, unless he shall have been a citizen of the United States at least seven years, and shall have resided in this State at least five years next preceding his election, and shall be at least twenty-five years old when elected.

SEC. 20. There shall be a great seal of the State, which shall be used officially by the governor; and the seal now in use shall continue to be used until another shall have been adopted by the general assembly. The said seal shall be called the "great seal of the State of Alabama."

SEC. 21. The secretary of state shall be custodian of the seal of the State, and shall authenticate therewith all official acts of the governor. his approval of laws and resolutions excepted. He shall keep a register of the official acts of the governor, and when necessary shall attest them, and lay copies of same, together with copies of all papers relative thereto, before either house of the general assembly, whenever required to do so, and shall perform such other duties as may be prescribed by law.

SEC. 22. All grants and commissions shall be issued in the name and by the authority of the State of Alabama, sealed with the great seal, signed by the governor and countersigned by the secretary of state.

SEC. 23. Should the office of secretary of state, State treasurer, State auditor, attorney-general, or superintendent of education become vacant, for any of the causes specified in section fifteen of this article, the governor shall fill the vacancy until the disability is removed or a successor elected and qualified.

SEC. 24. The State treasurer, State auditor, and attorney-general shall perform such duties as may be prescribed by law. The State treasurer and State auditor shall every year, at a time the general assembly may fix, make a full and complete report to the governor, showing all receipts and disbursements of revenue, of every character, all claims audited and paid by the State, by items, and all taxes and revenue collected and paid into the treasury, and from what sources, and they shall make reports oftener on any matter pertaining to their office, if required by the governor, or the general assembly.

SEC. 25. The State auditor, State treasurer, and secretary of state shall not, after the expiration of the terms of those now in office, receive to their use any fees, costs, perquisites of office, or compensation other than their salaries as prescribed by law; and all fees that may be payable by law, for any service performed by either of such officers, shall be paid in advance into the State treasury.

SEC. 26. A sheriff shall be elected in each county by the qualified electors thereof, who shall hold his office for the term of four years, unless sooner removed, and shall

be ineligible to such office as his own successor: *Provided*, That sheriffs elected on the first Monday in August, 1877, or at such other time as may be prescribed by law for the election in that year, shall hold their offices for the term of three years, and until their successors shall be elected and qualified. In the year 1880, at the general election for members of the general assembly, sheriffs shall be elected for four years as herein provided. Vacancies in the office of sheriff shall be filled by the governor, as in other cases, and the person appointed shall continue in office until the next general election in the county for sheriff, as provided by law

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State shall be vested in the senate, sitting as a court of impeachment, a supreme court, circuit courts, chancery courts, courts of probate, such inferior courts of law and equity, to consist of not more than five members, as the general assembly may from time to time establish, and such persons as may be by law invested with powers of a judicial nature.

SEC. 2. Except in cases otherwise directed in the constitution, the supreme court shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may from time to time be prescribed by law: *Provided*, That said court shall have power to issue writs of injunction, *habeas corpus*, *quo warranto*, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdiction.

SEC. 3. The supreme court shall be held at the seat of government, but if that shall have become dangerous from any cause, it may adjourn to a different place.

SEC. 4. The State shall be divided by the general assembly into convenient circuits, not to exceed eight in number, unless increased by a vote of two-thirds of the members of each house of the general assembly, and no circuit shall contain less than three nor more than twelve counties, and for each circuit there shall be chosen a judge, who shall for one year next preceding his election and during his continuance in office reside in the circuit for which he is elected.

SEC. 5. The circuit court shall have original jurisdiction in all matters, civil and criminal, within the State, not otherwise in this constitution; but in civil cases only when the matter or sum in controversy exceeds fifty dollars.

SEC. 6. A circuit court shall be held in each county in the State at least twice in every year; and the judges of the several circuits may hold court for each other when they deem it expedient, and shall do so when directed by law: *Provided*, That the judges of the several circuit courts shall have power to issue writs of injunction returnable into courts of chancery.

SEC. 7. The general assembly shall have power to establish a court or courts of chancery, with original and appellate jurisdiction. The State shall be divided by the general assembly into convenient chancery divisions, not exceeding three in number, unless an increase shall be made by a vote of two-thirds of each house of the general assembly, taken by yeas and nays and entered upon the journals; and the division shall be divided into districts, and for each division there shall be a chancellor, who shall, at the time of his election or appointment, and during his continuance in office, reside in the division for which he shall have been elected or appointed.

SEC. 8. A chancery court shall be held in each district, at a place to be fixed by law, at least once in each year; and the chancellors may hold courts for each other when they deem it necessary.

SEC. 9. The general assembly shall have power to establish in each county within the State a court of probate, with general jurisdiction for the granting of letters testamentary and of administration, and for orphans' business.

SEC. 10. The judges of the supreme court, circuit courts, and chancellors shall, at stated times, receive for their services a compensation, which shall not be diminished

during their official terms, but they shall receive no fees or perquisites, nor hold any office (except judicial offices) of profit or trust under this State, or the United States, or any other power, during the term for which they have been elected.

SEC. 11. The supreme court shall consist of one chief justice and such number of associate justices as may be prescribed by law.

SEC. 12. The chief-justice and associate justices of the supreme court, judges of the circuit courts, probate courts, and chancellors shall be elected by the qualified electors of the State, circuits, counties, and chancery divisions for which such courts may be established, at such time as may be prescribed by law.

SEC. 13. The judges of such inferior courts of law and equity as may be by law established, shall be elected or appointed, in such mode as the general assembly may prescribe.

SEC. 14. The judges of the supreme court, circuit courts, and chancellors, and the judges of city courts, shall have been citizens of the United States and of this State for five years next preceding their election or appointment, and shall be not less than twenty-five years of age, and learned in the law.

SEC. 15. The chief-justice and associate justices of the supreme court, circuit judges, chancellors, and probate judges shall hold office for the term of six years, and until their successors are elected or appointed and qualified; and the right of such judges and chancellors to hold their offices for the full term, hereby prescribed, shall not be affected by any change hereafter made by law in any circuit, division, or county in the mode or time of election.

SEC. 16. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the State; the judges of the circuit courts, within their respective circuits, and the judges of the inferior courts, within their respective jurisdictions, shall, in like manner, be conservators of the peace.

SEC. 17. Vacancies in the office of any of the judges or chancellors of this State shall be filled by appointment by the governor, and such appointee shall hold his office for the unexpired term, and until his successor is elected or appointed and qualified.

SEC. 18. If in any case, civil or criminal, pending in any circuit, chancery, or city court in this State, the presiding judge or chancellor shall, for any legal cause, be incompetent to try, hear, or render judgment in such cause, the parties or their attorneys of record, if it be a civil case, or the solicitor or other prosecuting officer, and the defendant or defendants, if it be a criminal case, may agree upon some disinterested person practicing in the court, and learned in the law, to act as special judge or chancellor, to sit as a court, and to hear, decide, and render judgment in the same manner and to the same effect as a judge of the circuit or city court or chancellor sitting as a court might do in such case. If the case be a civil one, and the parties or their attorneys of record do not agree, or if the case be a criminal one and the prosecuting officer and the defendant or defendants do not agree upon a special judge or chancellor, or if either party in a civil cause is not represented in court, the clerk of the circuit or city court, or register in chancery, of the court in which said cause is pending, shall appoint the special judge or chancellor, who shall preside, try, and render judgments as in this section provided.

SEC. 19. The general assembly shall have power to provide for the holding of circuit and chancery courts in this State, when the judges or chancellors thereof fail to attend regular terms.

SEC. 20. No judge of any court of record, in this State, shall practice law in any of the courts of this State or of the United States.

SEC. 21. Registers in chancery shall be appointed by the chancellors of the divisions, and shall hold office during the term of the chancellor making such appointment; and such registers shall receive as compensation for their services only such fees and commissions as may be specifically prescribed by law.

SEC. 22. A clerk of the supreme court shall be appointed by the judges thereof, and shall hold office during the term of the judges making the appointment, and clerks of such inferior courts as may be established by law shall be appointed by the judges thereof, and shall hold office during the term of the judge making such appointment.

SEC. 23. Clerks of the circuit court shall be elected by the qualified electors in each county, for the term of six years. Vacancies in such office shall be filled by the governor for the unexpired term.

SEC. 24. The clerk of the supreme court and registers in chancery may be removed from office by the judges of the supreme court and chancellors respectively, for cause, to be entered at length upon the records of the court.

SEC. 25. A solicitor for each judicial circuit shall be elected by joint ballot of the general assembly, who shall be learned in the law, and who shall, at the time of his election, and during his continuance in office, reside in the circuit for which he is chosen, and whose term of office shall be for six years: *Provided*, That the general assembly, at its first session thereof after the ratification of this constitution, shall, by joint ballot, elect a solicitor for each judicial circuit of the State, whose term of office shall begin on Tuesday after the first Monday in November, 1876, and continue for four years: *And provided*, That the general assembly may, when necessary, provide for the election or appointment of county solicitors.

SEC. 26. There shall be elected by the qualified electors of each precinct of the counties not exceeding two justices of the peace and one constable. Such justices shall have jurisdiction in all civil cases wherein the amount in controversy does not exceed $100, except in cases of libel, slander, assault and battery, and ejectment. In all cases tried before such justices, the right of appeal, without prepayment of costs, shall be secured by law: *Provided*, That the governor may appoint one notary public for each election-precinct in counties, and one for each ward in cities of over 5,000 inhabitants, who, in addition to the powers of notary, shall have and exercise the same jurisdiction as justices of the peace within the precincts and wards for which they are respectively appointed: *Provided*, That notaries public without such jurisdiction may be appointed. The term of office of such justice and notaries public shall be prescribed by law.

SEC. 27. An attorney-general shall be elected by the qualified electors of the State at the same time and places of election of members of the general assembly, and whose term of office shall be for two years, and until his successor is elected and qualified. After his election he shall reside at the seat of government and shall be the law-officer of the State, and shall perform such duties as may be required of him by law.

SEC. 28. The style of all processes shall be "The State of Alabama," and all prosecutions shall be carried on in the name and by the authority of the same, and shall conclude, "Against the peace and dignity of the State."

ARTICLE VII.

IMPEACHMENT.

SECTION 1. The governor, secretary of state, auditor, treasurer, attorney-general, superintendent of education, and judges of the supreme court may be removed from office for wilful neglect of duty, corruption in office, habitual drunkenness, incompetency, or any offence involving moral turpitude while in office, or committed under color thereof, or connected therewith, by the Senate, sitting as a court for that purpose, under oath or affirmation, on articles or charges preferred by the house of representatives.

SEC. 2. The chancellors, judges of the circuit courts, judges of the probate courts, solicitors of the circuits and judges of inferior courts from which an appeal may be taken directly to the supreme court, may be removed from office for any of the causes specified in the preceding section, by the supreme court, under such regulations as may be prescribed by law.

SEC. 3. The sheriffs, clerks of the circuit, city, or criminal courts, tax-collectors, tax-assessors, county treasurers, coroners, justices of the peace, notaries public, constables, and all other county officers, mayors and intendents of incorporated cities and towns in this State, may be removed from office for any of the causes specified in section one

of this article, by the circuit, city, or criminal court of the county in which such officers hold their office, under such regulations as may be prescribed by law: *Provided*, That the right of trial by jury and appeal in such cases be secured.

SEC. 4. The penalties in cases arising under the three preceding sections shall not extend beyond removal from office and disqualification from holding office under the authority of this State, for the term for which he was elected or appointed; but the accused shall be liable to indictment, trial, and punishment as prescribed by law.

ARTICLE VIII.

SUFFRAGE AND ELECTIONS.

SECTION 1. Every male citizen of the United States, and every male person of foreign birth who may have legally declared his intention to become a citizen of the United States before he offers to vote, who is 21 years old or upwards, possessing the following qualifications, shall be an elector, and shall be entitled to vote at any election by the people, except as hereinafter provided:

1st. He shall have resided in the State at least one year immediately preceding the election at which he offers to vote.

2d. He shall have resided in the county for three months, and in the precinct, district, or ward for thirty days immediately preceding the election at which he offers to vote: *Provided*, That the general assembly may prescribe a longer or shorter residence in any precinct in any county, or in any ward in any incorporated city or town having a population of more than 5,000 inhabitants, but in no case to exceed three months: *And provided*, That no soldier, sailor, or marine in the military or naval service of the United States shall acquire a residence by being stationed in this State.

SEC. 2. All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be *viva voce*.

SEC. 3. The following classes shall not be permitted to register, vote, or hold office:

1st. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery, or other crime punishable by imprisonment in the penitentiary.

2d. Those who are idiots or insane.

SEC. 4. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, or while going to or returning therefrom.

SEC. 5. The general assembly shall pass all laws, not inconsistent with this constitution, to regulate and govern elections in this State; and all such laws shall be uniform throughout the State. The general assembly may, when necessary, provide by law for the registration of electors throughout the State, or in any incorporated city or town thereof; and when it is so provided, no person shall vote at any election unless he shall have registered as required by law.

SEC. 6. It shall be the duty of the general assembly to pass adequate laws giving protection against the evils arising from the use of intoxicating liquors at all elections.

SEC. 7. Returns of elections for all civil officers who are to be commissioned by the governor, except secretary of state, State auditor, State treasurer, and attorney-general, and for members of the general assembly, shall be made to the secretary of state.

ARTICLE IX.

REPRESENTATION.

SECTION 1. The whole number of senators shall be not less than one-fourth or more than one-third of the whole number of representatives.

SEC. 2. The house of representatives shall consist of not more than one hundred members, who shall be apportioned by the general assembly among the several coun-

ties of the State according to the number of inhabitants in them, respectively, as ascertained by the decennial census of the United States for the year 1880; which apportionment, when made, shall not be subject to alteration until the first session of the general assembly after the next decennial census of the United States shall have been taken.

SEC. 3. It shall be the duty of the general assembly, at its first session after the taking of the decennial census of the United States in 1880, and after each subsequent decennial census, to fix by law the number of representatives, and apportion them among the several counties of the State: *Provided*, That each county shall be entitled to at least one representative.

SEC. 4. It shall be the duty of the general assembly, at its first session after the taking of the decennial census of the United States in 1880, and after each subsequent decennial census, to fix by law the number of senators, and to divide the State into as many senatorial districts as there are senators, which districts shall be as nearly equal to each other in the number of inhabitants as may be, and each shall be entitled to one senator and no more; and which districts, when formed, shall not be changed until the next apportioning session of the general assembly after the next decennial census of the United States shall have been taken. No county shall be divided between two districts, and no district shall be made of two or more counties not contiguous to each other.

SEC. 5. Should the decennial census of the United States from any cause not be taken, or if when taken the same as to this State is not full or satisfactory, the general assembly shall have power, at its first session after the time shall have elapsed for the taking of said census, to provide for an enumeration of all the inhabitants of this State, and once in each ten years thereafter, upon which it shall be the duty of the general assembly to make the apportionment of representatives and senators as provided for in this article.

SEC. 6. Until the general assembly shall make an apportionment of representatives among the several counties, after the first decennial census of the United States as herein provided, the counties of Autauga, Baldwin, Bibb, Blount, Calhoun, Chilton, Cherokee, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Dale, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Geneva, Henry, Lauderdale, Marion, Morgan, Monroe, Marshall, Randolph, Sanford, Shelby, Saint Clair, Walker, Washington, and Winston shall each have one representative; the counties of Barbour, Bullock, Butler, Chambers, Greene, Hale, Jackson, Jefferson, Limestone, Lawrence, Lowndes, Lee, Macon, Marengo, Perry, Pickens, Pike, Russell, Sumter, Talladega, Tallapoosa, Tuscaloosa, and Wilcox shall have each two representatives; the county of Madison shall have three representatives; the counties of Dallas and Montgomery shall have each four representatives, and the county of Mobile shall have five representatives.

SEC. 7. Until the general assembly shall divide the State into senatorial districts, as herein provided, the senatorial districts shall be as follows:

First district, Lauderdale and Limestone; second district, Colbert and Lawrence; third district, Morgan, Winston, and Blount; fourth district, Madison; fifth district, Marshall, Jackson, and De Kalb; sixth district, Cherokee, Etowah, and Saint Clair; seventh district, Calhoun and Cleburne; eighth district, Talladega and Clay; ninth district, Randolph and Chambers; tenth district, Macon and Tallapoosa; eleventh district, Bibb and Tuscaloosa; twelfth district, Franklin, Marion, Fayette, and Sanford; thirteenth district, Walker, Jefferson, and Shelby; fourteenth district, Greene and Pickens; fifteenth district, Coosa, Elmore, and Chilton; sixteenth district, Lowndes and Autauga; seventeenth district, Butler and Conecuh; eighteenth district, Perry; nineteenth district, Choctaw, Clarke, and Washington; twentieth district, Marengo; twenty-first district, Monroe, Escambia, and Baldwin; twenty-second district, Wilcox; twenty-third district, Henry, Coffee, Dale, and Geneva; twenty-fourth district, Barbour; twenty-fifth district, Pike, Crenshaw, and Covington; twenty-sixth district, Bullock: twenty-seventh district, Lee; twenty-eighth district, Montgomery; twenty-ninth district, Russell; thirtieth district, Dallas; thirty-first district, Sumter; thirty-second district, Hale; thirty-third district, Mobile.

ARTICLE X.

TAXATION.

SECTION 1. All taxes levied on property in this State shall be assessed in exact proportion to the value of such property: *Provided, however,* The general assembly may levy a poll-tax, not to exceed one dollar and fifty cents on each poll, which shall be applied exclusively in aid of the public-school fund in the county so paying the same.

SEC. 2. No power to levy taxes shall be delegated to individuals or private corporations.

SEC. 3. After the ratification of this constitution no new debt shall be created against or incurred by this State or its authorrty, except to repel invasion or suppress insurrection, and then only by a concurrence of two-thirds of the members of each house of the general assembly, and the vote shall be taken by yeas and nays and entered on the journals; and any act creating or incurring any new debt against this State, except as herein provided for, shall be absolutely void: *Provided,* The governor may be authorized to negotiate temporary loans, never to exceed $100,000, to meet deficiencies in the treasury, and until the same is paid no new loan shall be negotiated: *Provided further,* That this section shall not be so construed as to prevent the issuance of bonds in adjustment of existing State indebtedness.

SEC. 4. The general assembly shall not have the power to levy, in any one year, a greater rate of taxation than three-fourths of one per centum on the value of the taxable property within this State.

SEC. 5. No county in this State shall be authorized to levy a larger rate of taxation, in any one year, on the value of the taxable property therein, than one-half of one per centum: *Provided,* That to pay debts existing at the ratification of this constitution an additional rate of one-fourth of one per cent. may be levied and collected, which shall be exclusively appropriated to the payment of such debts, or the interest thereon: *Provided further,* That to pay any debt or liability now existing against any county, incurred for the erection of the necessary public buildings, or other ordinary county purposes, or that may hereafter be created for the erection of necessary public buildings or bridges, any county may levy and collect such special taxes as may have been, or may hereafter be, authorized by law; which taxes so levied and collected shall be applied exclusively to the purposes for which the same shall have been levied and collected.

SEC. 6. The property of private corporations, associations, and individuals of this State shall forever be taxed at the same rate: *Provided,* This section shall not apply to institutions or enterprises devoted exclusively to religious, educational, or charitable purposes.

SEC. 7. No city, town, or other municipal corporation other than provided for in this article, shall levy or collect a larger rate of taxation, in any one year on the property thereof, than one-half of one per centum of the value of such property, as assessed for State taxation during the preceding year: *Provided,* That for the payment of debts existing at the date of the ratification of this constitution, and the interest thereon, an additional rate of one per centum may be collected, to be applied exclusively to such indebtedness: *And provided,* This section shall not apply to the city of Mobile, which city may, until the 1st day or January, 1879, levy a tax not to exceed the rate of one per centum, and from and after that time a tax not to exceed the rate of three-fourths of one per centum to pay the expenses of the city government, and may also, until the 1st day of January, 1879, levy a tax not to exceed the rate of one per centum, and from and after that time a tax not to exceed three-fourths of one per centum to pay the existing indebtedness of said city and the interest thereon.

SEC. 8. At the first session of the general assembly after the ratification of this constitution, the salaries of the following officers shall be reduced at least twenty-five per centum, viz: governor, secretary of state, State auditor, State treasurer, attorney-general, superintendent of education, judges of the supreme and circuit courts, and chancellors; and after said reduction the general assembly shall not have the power

to increase the same, except by a vote of a majority of all the members elected to each house, taken by yeas and nays and entered on the journals: *Provided*, This section shall not apply to any of said officers now in office.

SEC. 9. The general assembly shall not have the power to require the counties or other municipal corporations to pay any charges which are now payable out of the State treasury.

ARTICLE XI.

MILITIA.

SECTION 1. All able-bodied male inhabitants of this State, between the ages of eighteen and forty-five years, who are citizens of the United States, or have declared their intention to become such citizens, shall be liable to military duty in the militia of the State.

SEC. 2. The general assembly in providing for the organization, equipment, and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

SEC. 3. Each company and regiment shall elect its own company and regimental officers; but if any company or regiment shall neglect to elect such officers within the time prescribed by law, they may be appointed by the governor.

SEC. 4. Volunteer organizations of infantry, cavalry, and artillery may be formed in such manner and under such restrictions and with such privileges as may be provided by law.

SEC. 5. The militia and volunteer forces shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at muster, parades, and elections, and in going to and returning from the same.

SEC. 6. The governor shall, except as otherwise provided herein, be commander-in-chief of the militia and volunteer forces of the State, except when in the service of the United States, and shall, with the advice and consent of the senate, appoint all general officers, whose term of office shall be for four years. The governor, the generals, and regimental and battalion commanders shall appoint their own staffs, as may be provided by law.

SEC. 7. The general assembly shall provide for the safe-keeping of the arms, ammunition, and accoutrements, military records, banners, and relics of the State.

SEC. 8. The officers and men of the militia and volunteer forces shall not be entitled to or receive any pay, rations, or emoluments when not in active service.

ARTICLE XII.

EDUCATION.

SECTION 1. The general assembly shall establish, organize, and maintain a system of public schools throughout the State, for the equal benefit of the children thereof between the ages of seven and twenty-one years; but separate schools shall be provided for the children of citizens of African descent.

SEC. 2. The principal of all funds arising from the sale or other disposition of lands or other property which has been or may hereafter be granted or entrusted to this State, or given by the United States for educational purposes, shall be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific objects of the original grants or appropriations.

SEC. 3. All lands or other property given by individuals or appropriated by the State for educational purposes, and all estates of deceased persons who die without leaving a will or heir, shall be faithfully applied to the maintenance of the public schools.

SEC. 4. The general assembly shall also provide for the levying and collection of an annual poll-tax, not to exceed one dollar and fifty cents on each poll, which shall be applied to the support of the public schools in the counties in which it is levied and collected.

SEC. 5. The income arising from the sixteenth-section trust-fund, the surplus-revenue fund, until it is called for by the United States Government, and the funds enumerated in sections three and four of this article, with such other moneys, to be not less than one hundred thousand dollars per annum, as the general assembly shall provide by taxation or otherwise, shall be applied to the support and maintenance of the public schools, and it shall be the duty of the general assembly to increase, from time to time, the public-school fund, as the condition of the treasury and the resources of the State will admit.

SEC. 6. Not more than four per cent. of all moneys raised, or which may hereafter be appropriated for the support of public schools, shall be used or expended otherwise than for the payment of teachers employed in such schools: *Provided*, That the general assembly may, by a vote of two-thirds of each house, suspend the operation of this section.

SEC. 7. The supervision of the public schools shall be vested in a superintendent of education, whose powers, duties, term of office, and compensation shall be fixed by law. The superintendent of education shall be elected by the qualified voters of the State, in such manner and at such time as shall be provided by law.

SEC. 8. No money raised for the support of the public schools of the State shall be appropriated to or used for the support of any sectarian or denominational school.

SEC. 9. The State University and the Agricultural and Mechanical College shall each be under the management and control of a board of trustees. The board for the University shall consist of two members from the congressional district in which the University is located, and one from each of the other congressional districts in the State. The board for the Agricultural and Mechanical College shall consist of two members from the congressional district in which the college is located, and one from each of the other congressional districts in the State. Said trustees shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold office for a term of six years, and until their successors shall be appointed and qualified. After the first appointment each board shall be divided into three classes, as nearly equal as may be. The seats of the first class shall be vacated at the expiration of two years, and those of the second class in four years, and those of the third class at the end of six years from the date of appointment, so that one-third may be chosen biennially. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such. The governor shall be *ex officio* president, and the superintendent of education *ex officio* a member of each of said boards of trustees.

SEC. 10. The general assembly shall have no power to change the location of the State University or the Agricultural and Mechanical College as now established by law, except upon a vote of two-thirds of the members of the general assembly, taken by yeas and nays, and entered upon the journals.

SEC. 11. The provisions of this article, and of any act of the general assembly, passed in pursuance thereof, to establish, organize, and maintain a system of public schools throughout the State, shall apply to Mobile County only so far as to authorize and require the authorities designated by law to draw the portion of the funds to which said county will be entitled for school purposes, and to make reports to the superintendent of education as may be prescribed by law. And all special incomes and powers of taxation as now authorized by law for the benefit of public schools in said county, shall remain undisturbed until otherwise provided by the general assembly: *Provided*, That separate schools for each race shall always be maintained by said school authorities.

ARTICLE XIII.

CORPORATIONS—PRIVATE CORPORATIONS.

SECTION 1. Corporations may be formed under general laws, but shall not be created by special act, except for municipal, manufacturing, mining, immigration, industrial, and educational purposes, or for constructing canals, or improving navigable

rivers and harbors of this State, and in cases where, in the judgment of the general assembly, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered, amended, or repealed.

SEC. 2. All existing charters, or grants of special or exclusive privileges, under which a *bona-fide* organization shall not have taken place and business been commenced in good faith, at the time of the ratification of this constitution, shall thereafter have no validity.

SEC. 3. The general assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend the same, or pass any general or special law for the benefit of such corporation, other than in execution of a trust created by law or by contract, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

SEC. 4. No foreign corporation shall do any business in this State without having at least one known place of business, and an authorized agent or agents therein; and such corporation may be sued, in any county where it does business, by service of process upon an agent anywhere in this State.

SEC. 5. No corporation shall engage in any business other than that expressly authorized in its charter.

SEC. 6. No corporation shall issue stock or bonds, except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of corporations shall not be increased, except in pursuance of general laws, nor without the consent of the persons holding the larger amount in value of stock first obtained at a meeting to be held after thirty days' notice given in pursuance of law.

SEC. 7. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for the property taken, injured, or destroyed by the construction or enlargement of its works, highways, or improvements, which compensation shall be paid before such taking, injury, or destruction. The general assembly is hereby prohibited from depriving any person from an appeal from any preliminary assessment of damages against any such corporations or individuals, made by viewers or otherwise; and the amount of such damages in all cases of appeal shall, on the demand of either party, be determined by a jury according to law.

SEC. 8. Dues from private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be individually liable otherwise than for the unpaid stock owned by him or her.

SEC. 9 No corporation shall issue preferred stock without the consent of the owners of two-thirds of the stock of said corporation.

SEC. 10. The general assembly shall have the power to alter, revoke, or amend any charter of incorporation now existing, and revokable at the ratification of this constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of the State, in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create, renew, or extend the charter of more than one corporation.

SEC. 11. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and connect the same with other lines; and the general assembly shall, by general law of uniform operation, provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in the stock or bonds of, any other telegraph company owning a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph.

SEC. 12. All corporations shall have the right to sue, and shall be subject to be sued, in all courts, in like cases as natural persons.

SEC. 13. The term "corporation," as used in this article, shall be construed to include all joint-stock companies, or any associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.



BANKS AND BANKING.

SEC. 14. The general assembly shall not have the power to establish or incorporate any bank, or banking company, or moneyed institution, for the purpose of issuing bills of credit, or bills payable to order or bearer, except under the conditions prescribed in this constitution.

SEC. 15. No bank shall be established otherwise than under a general banking law, as provided in the thirteenth section of this article, nor otherwise than upon a specie basis.

SEC. 16. All bills or notes issued as money shall be, at all times, redeemable in gold or silver; and no law shall be passed sanctioning, directly or indirectly, the suspension, by any bank or banking company, of specie payment.

SEC. 17. Holders of bank-notes and depositors who have not stipulated for interest shall, for such notes and deposits, be entitled, in case of insolvency, to the preference of payment over all other creditors.

SEC. 18. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization, unless the general assembly shall extend the time, and promptly thereafter close its business, but shall have corporate capacity to sue, and shall be liable to suit, until its affairs and liabilities are fully closed.

SEC. 19. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals for lending money.

SEC. 20. The State shall not be a stockholder in any bank, nor shall the credit of the State ever be given or loaned to any banking company, association, or corporation.

RAILROADS AND CANALS.

SEC. 21. All railroads and canals shall be public highways, and all railroad and canal companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points in this State, and to connect, at the State line, with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's freight, passengers, and cars, loaded or empty, without delay or discrimination.

SEC. 22. The general assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freights and passenger tariffs on railroads, canals, and rivers in this State.

SEC. 23. No railroad or other transportation company shall grant free passes, or sell tickets or passes at a discount, other than as sold to the public generally, to any member of the general assembly, or to any person holding office under this State or the United States.

SEC. 24. No street passenger railway shall be constructed within the limits of any city or town without the consent of its local authorities.

SEC. 25. No railroad, canal, or other transportation company, in existence at the time of the ratification of this constitution, shall have the benefit of any future legislation by general or special laws, other than in execution of a trust created by law or by contract, except on the condition of complete acceptance of all the provisions of this article.

ARTICLE XIV.

EXEMPTED PROPERTY.

SECTION 1. The personal property of any resident of this State to the value of $1,000, to be selected by such resident, shall be exempted from sale on execution, or other process of any court, issued for the collection of any debt contracted since the 13th day of July, 1868, or after the ratification of this constitution.

SEC. 2. Every homestead, not exceeding eighty acres, and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any city, town, or

village, or in lieu thereof, at the option of the owner, any lot in the city, town, or village, with the dwelling and appurtenances thereon, owned and occupied by any resident of this State, and not exceeding the value of two thousand dollars, shall be exempt from sale on execution or any other process from a court, for any debt contracted after the adoption of this constitution. Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of such homestead, by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife of the same.

SEC. 3. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of any debts contracted after the adoption of this constitution, in all cases, during the minority of the children.

SEC. 4. The provisions of sections one and two of this article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming such exemption, or a mechanic's lien for work done on the premises.

SEC. 5. If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt, and the rents and profits thereof shall inure to her benefit.

SEC. 6. The real and personal property of any female in this State, acquired before marriage, and all property, real and personal, to which she may afterward be entitled by gift, grant, inheritance, or devise, shall be and remain the separate estate and property of such female, and shall not be liable for any debts, obligations, and engagements of her husband, and may be devised or bequeathed by her the same as if she were a *feme sole*.

SEC. 7. The right of exemptions hereinbefore secured may be waived by an instrument in writing, and when such waiver relates to reality, the instrument must be signed by both the husband and wife, and attested by one witness.

ARTICLE XV.

OATH OF OFFICE.

SECTION 1. All members of the general assembly, and all officers, executive and judicial, before they enter upon the execution of the duties of their respective offices, shall take the following oath or affirmation, to wit:

"I, ———, solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United States, and the constitution of the State of Alabama, so long as I continue a citizen thereof; and that I will faithfully and honestly discharge the duties of the office upon which I am about to enter, to the best of my ability: So help me God."

Which oath may be administered by the presiding officer of either house of the general assembly, or any officer authorized by law to administer an oath.

ARTICLE XVI.

MISCELLANEOUS PROVISIONS.

SECTION 1. No person holding an office of profit under the United States, except postmasters whose annual salary does not exceed two hundred dollars, shall, during his continuance in such office, hold any office of profit under this State; nor shall any person hold two offices of profit at one and the same time under this State, except justices of the peace, constables, notaries public, and commissioners of deeds.

SEC. 2. It is made the duty of the general assembly to enact all laws necessary to give effect to the provisions of this constitution.

ARTICLE XVII.

MODE OF AMENDING THE CONSTITUTION.

SECTION 1. The general assembly may, whenever two-thirds of each house shall deem it necessary, propose amendments to this constitution, which, having been read



three times on three successive days, shall be duly published, in such manner as the general assembly may direct, at least three months before the next general election for representatives, for the consideration of the people; and it shall be the duty of the several returning-officers, at the next general election which shall be held for representatives, to open a poll for the vote of the qualified electors on the proposed amendments, and to make a return of said vote to the secretary of state; and if it shall thereupon appear that a majority of all the qualified electors of the State, who voted for representatives, voted in favor of the proposed amendments, said amendments shall be valid to all intents and purposes as parts of this constitution, and the results of such election shall be made known by proclamation of the governor.

SEC. 2. No convention shall hereafter be held for the purpose of altering or amending the constitution of this State, unless the question of convention or no convention shall be first submitted to a vote of all the electors twenty-one years and upwards, and approved by a majority of electors voting at said election.

L. P. WALKER, *President.*

B. H. SCREWS, *Secretary.*

ARKANSAS.*

TREATY CEDING LOUISIANA—1803.

[See "Louisiana," pages 687–690.]

THE DISTRICT OF LOUISIANA—1804.

[See "Louisiana," pages 691–695.]

THE TERRITORY OF LOUISIANA—1805.

[See "Louisiana," pages 697–698.]

THE TERRITORY OF MISSOURI—1812.

[See "Missouri," pages 1097–1101.]

THE TERRITORIAL GOVERNMENT OF ARKANSAS—1819.†

[FIFTEENTH CONGRESS, SECOND SESSION.]

An Act establishing a separate territorial government in the southern part of the Territory of Missouri.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the fourth day of July next, all that part of the Territory of Missouri which lies south of a line beginning on the Mississippi River, at thirty-six degrees north latitude, running thence west to the river Saint François; thence, up the same, to thirty-six degrees thirty minutes north latitude; and thence, west, to the western territorial boundary-line; shall, for the purposes of a territorial government, constitute a separate Territory, and be called the Arkansaw Territory.

SEC. 2. *And be it further enacted,* That there shall be established in the said Territory of Arkansaw, a temporary government, to consist of three departments, the executive, the legislative, and the judiciary.

SEC. 3. *And be it further enacted,* That the executive power shall be vested in a governor, who shall reside in the said Territory, and shall hold his office during three years, unless sooner removed by the President of the United States; he shall be commander-in-chief of the militia of said Territory, shall have power to appoint and

* The area of the State of Arkansas was ceded by France to the United States and became a part of the Territory of Louisiana, and then of the Territory of Arkansas.

† This act was amended by an act approved May 26, 1824.

commission all officers required by law to be appointed for said Territory, whose appointments are not otherwise provided for by this act; shall take care that the laws be faithfully executed; shall have power to grant pardons for offenses against the said Territory, and reprieves for those against the United States, until the decision of the President thereon shall have been made known; shall, on extraordinary occasions, have power to convene the general assembly, hereinafter provided for, after one shall have been organized in conformity to law; shall, ex-officio, be superintendent of Indian affairs, and shall have such other powers, and perform such further duties, as are by law given to, and imposed on, the governor of the Missouri Territory, in all cases in which they shall become legally applicable to the Territory of Arkansaw.

SEC. 4. *And be it further enacted,* That there shall be a secretary for the said Territory, who shall reside therein, and continue in office for the term of four years, unless sooner removed by the President: he shall perform all the duties imposed on the secretary for the Territory of Missouri, by an act of Congress of the fourth of June, eighteen hundred and twelve, entitled "An act providing for the government of Missouri."

SEC. 5. *And be it further enacted,* That the legislative power shall, until the organization of the general assembly, hereinafter provided for, be vested in the governor and the judges of the superior court of the Territory, who shall have power to pass any law for the administration of justice in said Territory, which shall not be repugnant to this act, or inconsistent with the Constitution of the United States: *Provided,* That whenever the general assembly shall be organized, all the legislative power of the Territory shall be vested in, and exercised by, the said general assembly.

SEC. 6. *And be it further enacted,* That so much of the act of Congress of the fourth of June, eighteen hundred and twelve, entitled "An act providing for the government of the Territory of Missouri," as relates to the organization of a general assembly therein, prescribes the powers and privileges thereof, the mode of election, and period of service, of the members thereof, and defines the qualifications and privileges of the electors and elected, shall be in full force and operation in the Arkansaw Territory, to the extent of its application, so soon as the governor thereof shall be satisfied that such is the desire of a majority of the freeholders thereof, and not until then: *Provided,* That until there shall be five thousand free white males, of the age of twenty-one years and upward, resident in the said Territory, the whole number of representatives shall not exceed nine.

SEC. 7. *And be it further enacted,* That the judicial power of the Territory shall be vested in a superior court, and in such inferior courts as the legislative department of the Territory shall, from time to time, institute and establish, and in justices of the peace. The superior court shall be composed of three judges, who shall reside in the Territory, and continue in office for the term of four years, unless sooner removed by the President. The superior court shall have jurisdiction in all criminal and penal cases, and exclusive cognizance of all capital cases, and shall have and exercise original jurisdiction, concurrently with the inferior courts, and exclusive appellate jurisdiction in all civil cases in which the amount in controversy shall be one hundred dollars or upward. The superior court shall be holden at such times and place, or places, as the legislative department shall direct, and continue in session until the business therein shall be disposed of, or as long as shall be prescribed by law: *Provided,* That any two of the judges shall constitute a court of appellate, and any one a court of original, jurisdiction.

SEC. 8. *And be it further enacted,* That the governor, secretary, judges, and all other officers, of the Territory, civil and military, shall, before they enter on the duties of their respective offices, take an oath or affirmation to support the Constitution of the United States, and to discharge, with fidelity, the duties of their offices; the governor, before a judge of the Supreme or district court of the United States, or a judge of the superior court of the said Territory; the secretary and judges, before the said governor, or a judge of the Supreme or district court of the United States; and all other officers, before the governor, or any of the judges of the supreme or inferior courts, or justices of the peace, of said Territory.

SEC. 9. *And be it further enacted*, That the governor, secretary, and judges of the superior court authorized for said Territory, during the temporary government thereof, shall be appointed by the President of the United States, with the advice and consent of the Senate: *Provided*, That the President shall have full power, during the recess of the Senate, to commission all or any of the said officers, until the end of the session of Congress next succeeding the date of the commission. The governor, secretary, and judges of the superior court shall receive the same compensation, payable quarter-yearly, which the governor, secretary, and superior judges of the Missouri Territory are entitled to by law.

SEC. 10. *And be it further enacted*, That all the laws which shall be in force in the Territory of Missouri, on the fourth day of July next, not inconsistent with the provisions of this act, and which shall be applicable to the Territory of Arkansaw, shall be, and continue, in force in the latter Territory, until modified or repealed by the legislative authority thereof.

SEC. 11. *And be it further enacted*, That the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, where they continue to be held by the patentees or their heirs, remain exempt from all taxes, for the term of three years from and after the date of the patents respectively.

SEC. 12. *And be it further enacted*, That whenever, according to the provisions of this act, the people of the Arkansaw Territory shall have a right to elect members of the house of representatives of their general assembly, they shall also have the right to elect a Delegate from the said Territory to the Congress of the United States, who shall possess the same powers, enjoy the same privileges, and receive the same compensation granted and secured by law to the Delegates from other Territories.

SEC. 13. *And be it further enacted*, That until otherwise directed by the legislative department of the said Territory of Arkansaw, the seat of the territorial government thereof shall be the post of Arkansaw, on the Arkansaw River.

SEC. 14. *And be it further enacted*, That the line now established by law, between the land-offices at the seat of justice in the county of Lawrence, and at the town of Jackson, in the county of Cape Girardeau, shall, from and after the passage of this act, be so altered as to run, be the same, and correspond, with the northern line of the said Territory of Arkansaw, anything in the act, entitled "An act making provision for the establishment of additional land-offices in the Territory of Missouri," passed the seventeenth day of February, one thousand eight hundred and eighteen, to the contrary notwithstanding.

APPROVED 2 March, 1819.

CONSTITUTION OF ARKANSAS—1836.

We, the people of the Territory of Arkansas, by our representatives in convention assembled, at Little Rock, on Monday, the 4th day of January, A. D. 1836, *and of the Independence of the United States the sixtieth year, having the right of admission into the Union as one of the United States of America, consistent with the Federal Constitution, and by virtue of the treaty of cession, by France to the United States, of the Province of Louisiana, in order to secure to ourselves and our posterity the enjoyment of all the rights of life, liberty, and property, and the free pursuit of happiness, do mutually agree with each other to form ourselves into a free and independent State, by the name and style of "The State of Arkansas," and do ordain and establish the following constitution for the government thereof:*

ARTICLE I.

OF BOUNDARIES.

We do declare and establish, ratify and confirm, the following as the permanent boundaries of said State of Arkansas, that is to say: Beginning in the middle of the

main channel of the Mississippi River, on the parallel of thirty-six degrees north latitude; running from thence west with the said parallel of latitude to the Saint Francis River; thence up the middle of the main channel of said river to the parallel of thirty-six degrees, thirty minutes north; from thence west to the southwest corner of the State of Missouri; and from thence to be bounded on the west, to the north bank of Red River, as by acts of Congress and treaties heretofore defining the western limits of the Territory of Arkansas; and to be bounded on the south side of Red River by the Mexican boundary-line to the northwest corner of the State of Louisiana; thence east with the Louisiana State line, to the middle of the main channel of the Mississippi River; thence up the middle of the main channel of said river to the thirty-sixth degree of north latitude, the point of beginning.

ARTICLE II.

DECLARATION OF RIGHTS.

That the great and essential principles of liberty and free government may be recognized and unalterably established, we declare:

SECTION 1. That all freemen, when they form a social compact, are equal, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty; of acquiring, possessing and protecting property and reputation; and of pursuing their own happiness.

SEC. 2. That all power is inherent in the people; and all free governments are founded on their authority, and instituted for their peace, safety, and happiness. For the advancement of these ends, they have, at all times, an unqualified right to alter, reform or abolish their government, in such manner as they may think proper.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; and no man can of right be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. That no human authority can, in any case whatever, interfere with the rights of conscience; and that no preference shall ever be given to any religious establishment or mode of worship.

SEC. 4. That the civil rights, privileges or capacities of any citizen shall in no wise be diminished or enlarged on account of his religion.

SEC. 5. That all elections shall be free and equal.

SEC. 6. That the right of trial by jury shall remain inviolate.

SEC. 7. That printing-presses shall be free to every person; and no law shall ever be made to restrain the rights thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write and print on any subject—being responsible for the abuse of that liberty.

SEC. 8. In prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have the right to determine the law and the facts.

SEC. 9. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable searches and seizures; and that general warrants, whereby any officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and shall not be granted.

SEC. 10. That no freeman shall be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers, or the law of the land.

SEC. 11. That in all criminal prosecutions the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory

process for obtaining witnesses in his favor; and in prosecutions by indictment or presentment, a speedy public trial by an impartial jury of the county or district in which the crime shall have been committed; and shall not be compelled to give evidence against himself.

SEC. 12. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

SEC. 13. That all penalties shall be reasonable, and proportioned to the nature of the offence.

SEC. 14. That no man shall be put to answer any criminal charge, but by presentment, indictment or impeachment.

SEC. 15. That no conviction shall work corruption of blood or forfeiture of estate.

SEC. 16. That all prisoners shall be bailable by sufficient securities, unless in capital offences, where the proof is evident or the presumption great: and the privilege of the writ of *habeas corpus* shall not be suspended, unless where, in case of rebellion or invasion, the public safety may require it.

SEC. 17. That excessive bail shall in no case be required, nor excessive fines imposed.

SEC. 18. That no *ex post facto* law, or any law impairing the obligation of contracts, shall ever be made.

SEC. 19. That perpetuities and monopolies are contrary to the genius of a republic, and shall not be allowed; nor shall any hereditary emolument, privileges or honors ever be granted or conferred in this State.

SEC. 20. That the citizens have a right in a peaceable manner to assemble together for their common good, to instruct their representatives, and to apply to those invested with the power of the government for redress of grievances, or other proper purposes, by address or remonstrance.

SEC. 21. That the free white men of this State shall have a right to keep and to bear arms for their common defence.

SEC. 22. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war, but in a manner prescribed by law.

SEC. 23. The military shall be kept in strict subordination to the civil power.

SEC. 24. This enumeration of rights shall not be construed to deny or disparage others retained by the people; and, to guard against any encroachments on the rights herein retained, or any transgression of any of the higher powers herein delegated, we declare that everything in this article is excepted out of the general powers of the government, and shall forever remain inviolate; and that all laws contrary thereto, or to the other provisions herein contained, shall be void.

ARTICLE III.

OF DEPARTMENTS.

SECTION 1. The powers of the government of the State of Arkansas shall be divided into three distinct departments, each of them to be confided to a separate body of magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

SEC. 2. No person, or collection of persons, being of one of those departments, shall exercise any power belonging to either of the others; except in the instances hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in a general assembly, which shall consist of a senate, and a house of representatives.



QUALIFICATIONS OF ELECTORS.

SEC. 2. Every free white male citizen of the United States, who shall have attained the age of twenty-one years, and who shall have been a citizen of this State six months, shall be deemed a qualified elector, and be entitled to vote in the county or district where he actually resides, for each and every office made elective under this State, or under the United States: *Provided*, That no soldier, seaman, or marine, in the Army or Navy of the United States, shall be entitled to vote at any election within this State.

TIME OF CHOOSING REPRESENTATIVES.

SEC. 3. The house of representatives shall consist of members to be chosen every second year, by the qualified electors of the several counties.

QUALIFICATIONS OF A REPRESENTATIVE.

SEC. 4. No person shall be a member of the house of representatives, who shall not have attained the age of twenty-five years; who shall not be a free white male citizen of the United States; who shall not have been an inhabitant of this State one year; and who shall not, at the time of his election, have an actual residence in the county he may be chosen to represent.

QUALIFICATIONS OF A SENATOR.

SEC. 5. The senate shall consist of members to be chosen every four years, by the qualified electors of the several districts.

SEC. 6. No person shall be a senator, who shall not have attained the age of thirty years; who shall not be a free white male citizen of the United States; who shall not have been an inhabitant of this State one year; and who shall not, at the time of his election, have an actual residence in the district he may be chosen to represent.

MEETING OF THE GENERAL ASSEMBLY.

SEC. 7. The general assembly shall meet every two years, on the first Monday of November, at the seat of government, until altered by law.

THE MODE OF ELECTION, AND TIME, AND PRIVILEGE OF ELECTORS.

SEC. 8. All general elections shall be *viva voce*, until otherwise directed by law, and shall commence and be holden every two years, on the first Monday in October, until altered by law; and the electors, in all cases except in cases of treason, felony and breach of the peace, shall be privileged from arrest during their attendance on elections, and in going to and returning therefrom.

DUTY OF GOVERNOR.

SEC. 9. The governor shall issue writs of election, to fill such vacancies as shall occur in either house of the general assembly.

SEC. 10. No judge of the supreme, circuit or inferior courts of law or equity, secretary of state, attorney for the State, State auditor or treasurer, register or recorder, clerk of any court of record, sheriff, coroner, member of Congress, nor any other person holding any lucrative office under the United States or this State, (militia officers, justices of the peace, postmasters and judges of the county courts excepted,) shall be eligible to a seat in either house of the general assembly.

SEC. 11. No person who now is, or shall be hereafter, a collector or holder of public money, nor any assistant or deputy of such holder or collector of public money, shall be eligible to a seat in either house of the general assembly, nor to any office of profit or trust, until he shall have accounted for and paid over, all sums for which he may have been liable.

SEC. 12. The general assembly shall exclude from every office of trust or profit,

and from the right of suffrage, within this State, all persons convicted of bribery, perjury, or other infamous crime.

SEC. 13. Every person who shall have been convicted of directly or indirectly giving or offering any bribe, to procure his election or appointment, shall be disqualified from holding any office of trust or profit under this State; and any person who shall give or offer any bribe to procure the election or appointment of any person, shall, on conviction thereof, be disqualified from being an elector, or from holding office of trust or profit under this State.

SEC. 14. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall have been increased, during his continuance of office; except to such office as shall be filled by the election of the people.

SEC. 15. Each house shall appoint its own officers, and shall judge of the qualifications, returns and elections of its own members. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner, and under such penalties, as each house shall provide.

SEC. 16. Each house may determine the rule of its proceedings, punish its own members for disorderly behavior, and, with the concurrence of two-thirds of the members elected, expel a member; but no member shall be expelled a second time for the same offence. They shall each, from time to time, publish a journal of their proceedings, except such parts as may in their opinion require secrecy; and the yeas and nays upon any question shall be entered on the journal, at the desire of any five members.

SEC. 17. The door of each house, when in session or in committee of the whole, shall be kept open, except in cases which may require secrecy; and each house may punish by fine and imprisonment, any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence, during their session; but such imprisonment shall not extend beyond the final adjournment of that session.

SEC. 18. Bills may originate in either house, and be amended or rejected in the other; and every bill shall be read on three different days in each house, unless two-thirds of the house where the same is pending shall dispense with the rules: and every bill having passed both houses, shall be signed by the president of the senate and the speaker of the house of representatives.

SEC. 19. Whenever an officer, civil or military, shall be appointed by the joint or concurrent vote of both houses, or by the separate vote of either house of the general assembly, the vote shall be taken *viva voce*, and entered on the journal.

SEC. 20. The senators and representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest, during the session of the general assembly, and for fifteen days before the commencement and after the termination of each session; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 21. The members of the general assembly shall severally receive, from the public treasury, compensation for their services, which may be increased or diminished; but no alteration of such compensation of members shall take effect during the session at which it is made.

THE MANNER OF BRINGING SUITS AGAINST THE STATE.

SEC. 22. The general assembly shall direct by law, in what courts, and in what manner suits may be commenced against the State.

SEC. 23. They shall have power to pass all laws that are necessary to prohibit the introduction into this State, of any slave or slaves, who may have committed any high crime, in any other State or Territory.

SEC. 24. The general assembly shall not have power to pass any bill of divorce; but may prescribe by law the manner in which such cases shall be investigated in the courts of justice, and divorces granted.



SEC. 25. The general assembly shall have power to prohibit the introduction of any slave or slaves, for the purpose of speculation, or as an article of trade and merchandise; to oblige the owner of any slave or slaves to treat them with humanity: and, in the prosecution of slaves for any crime, they shall not be deprived of an impartial jury; and any slave who shall be convicted of a capital offence, shall suffer the same degree of punishment as would be inflicted on a free white person, and no other; and courts of justice, before whom slaves shall be tried, shall assign them counsel for their defence.

SEC. 26. The governor, secretary of state, auditor, treasurer, and all the judges of the supreme, circuit and inferior courts of law and equity, and the prosecuting attorneys for the State, shall be liable to impeachment, for any malpractice or misdemeanor in office; but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust or profit under this State: the party impeached, whether convicted or acquitted, shall nevertheless be liable to be indicted, tried and punished, according to law.

SEC. 27. The house of representatives shall have the sole power of impeachment, and all impeachments shall be tried by the senate; and when sitting for that purpose, the senators shall be on oath or affirmation to do justice according to law and evidence. When the governor shall be tried, the chief justice of the supreme court shall preside; and no person shall be convicted without the concurrence of two-thirds of all the senators elected: and for reasonable cause, which shall not be sufficient ground of impeachment, the governor shall, on the joint address of two-thirds of each branch of the legislature, remove from office the judges of the supreme and inferior courts: *Provided*, The cause or causes of removal be spread on the journals, and the party charged be notified of the same, and heard by himself and counsel, before the vote is finally taken and decided.

SEC. 28. The appointment of all officers, not otherwise directed by this constitution, shall be made in such manner as may be prescribed by law: and all officers, both civil and military, acting under the authority of this State, shall, before entry on the duties of their respective offices, take an oath or affirmation to support the Constitution of the United States and of this State, and to demean themselves faithfully in office.

SEC. 29. No county now established by law, shall ever be reduced, by the establishment of any new county or counties, to less than nine hundred square miles, nor to a less population than its ratio of representation in the house of representatives; nor shall any county be hereafter established, which shall contain less than nine hundred square miles, (except Washington County, which may be reduced to six hundred square miles,) or a less population than would entitle each county to a member in the house of representatives.

SEC. 30. The style of the laws of this State shall be—"*Be it enacted by the general assembly of the State of Arkansas.*"

SEC. 31. The State shall from time to time be divided into convenient districts, in such manner that the senate shall be based upon the free white male inhabitants of the State, each senator representing an equal number, as nearly as practicable; and until the first enumeration of the inhabitants shall be taken, the districts shall be arranged as follows:

The county of Washington shall compose one district, and elect two senators;

The counties of Carroll, Searcy and Izard, shall compose one district, and elect one senator.

The counties of Independence and Jackson shall compose one district, and elect one senator.

The counties of Lawrence and Randolph shall compose one district, and elect one senator.

The counties of Johnson and Pope shall compose one district, and elect one senator.

The counties of Crawford and Scott shall compose one district, and elect one senator.

The counties of Conway and Van Buren shall compose one district, and elect one senator.

The counties of Pulaski, White and Saline shall compose one district, and elect one senator.
The counties of Hot Spring, Clark and Pike shall compose one district, and elect one senator.
The counties of Hempstead and Lafayette shall compose one district, and elect one senator.
The counties of Sevier and Miller shall compose one district, and elect one senator.
The counties of Chicot and Union shall compose one district, and elect one senator.
The counties of Arkansas and Jefferson shall compose one district, and elect one senator.
The counties of Phillips and Monroe shall compose one district, and elect one senator.
The counties of Saint Francis and Greene shall compose one district, and elect one senator.
The counties of Crittenden and Mississippi shall compose one district, and elect one senator.

And the senate shall never consist of less than seventeen nor more than thirty-three members; and as soon as the senate shall meet after the first election to be held under this constitution, they shall cause the senators to be divided by lot into two classes—nine of the first class and eight of the second; and the seats of the first class shall be vacated at the end of two years from the time of their election, and the seats of the second class at the end of four years from the time of their election; in order that one class of the senators may be elected every two years.

SEC. 32. An enumeration of the inhabitants of the State shall be taken under the direction of the general assembly, on the first day of January, one thousand eight hundred and thirty-eight, and at the end of every four years thereafter; and the general assembly shall, at the first session after the return of every enumeration, so alter and arrange the senatorial districts that each district shall contain, as nearly as practicable, an equal number of free white male inhabitants: *Provided*, That Washington County, as long as its population shall justify the same, may, according to its numbers, elect more than one senator; and such districts shall then remain unaltered, until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senatorial district.

SEC. 33. The ratio of representation in the senate, shall be fifteen hundred free white male inhabitants to each senator, until the senators amount to twenty-five in number; and then they shall be equally apportioned, upon the same basis, throughout the State, in such ratio as the increased numbers of free white male inhabitants may require, without increasing the senators to a greater number than twenty-five, until the population of the State amounts to five hundred thousand souls; and when an increase of senators takes place, they shall, from time to time, be divided by lot, and classed as prescribed above.

SEC. 34. The house of representatives shall consist of not less than fifty-four, nor more than one hundred representatives, to be apportioned among the several counties in this State, according to the number of free white male inhabitants therein, taking five hundred as the ratio, until the number of representatives amounts to seventy-five; and when they amount to seventy-five, they shall not be further increased until the population of the State amounts to five hundred thousand souls: *Provided*, That each county now organized shall, although its population may not give the existing ratio, always be entitled to one representative: and until the first enumeration shall be taken, the representatives shall be apportioned among the several counties, as follows:
The county of Washington shall elect six representatives.
The county of Scott shall elect one representative.
The county of Johnson shall elect two representatives.
The county of Pope shall elect two representatives.
The county of Conway shall elect one representative.
The county of Van Buren shall elect one representative.
The county of Carroll shall elect two representatives.

The county of Searcy shall elect one representative.
The county of Izard shall elect one representative.
The county of Independence shall elect two representatives.
The county of Crawford shall elect three representatives.
The county of Jackson shall elect one representative.
The county of Lawrence shall elect two representatives.
The county of Randolph shall elect two representatives.
The county of White shall elect one representative.
The county of Pulaski shall elect two representatives.
The county of Saline shall elect one representative.
The county of Hot Spring shall elect one representative.
The county of Clarke shall elect one representative.
The county of Saint Francis shall elect two representatives.
The county of Pike shall elect one representative.
The county of Hempstead shall elect two representatives.
The county of Miller shall elect one representative.
The county of Sevier shall elect one representative.
The county of Lafayette shall elect one representative.
The county of Union shall elect one representative.
The county of Arkansas shall elect two representatives.
The county of Jefferson shall elect one representative.
The county of Monroe shall elect one representative.
The county of Phillips shall elect two representatives.
The county of Greene shall elect one representative.
The county of Crittenden shall elect two representatives.
The county of Mississippi shall elect one representative.
The county of Chicot shall elect two representatives.

And at the first session of the general assembly, after the return of every enumeration, the representation shall be equally divided and re-apportioned among the several counties, according to the number of free white males in each county, as above prescribed.

MODE OF AMENDING THE CONSTITUTION.

SEC. 35. The general assembly may at any time propose such amendments to this constitution as two-thirds of each house shall deem expedient, which shall be published in all the newspapers published in this State, three several times, at least twelve months before the next general election; and if, at the first session of the general assembly after such general election, two-thirds of each house shall, by yeas and nays, ratify such proposed amendments, they shall be valid to all intents and purposes, as parts of this constitution: *Provided*, That such proposed amendments shall be read on three several days, in each house, as well when the same are proposed, as when they are finally ratified.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of Arkansas.

SEC. 2. The governor shall be elected by the qualified electors, at the time and places where they shall respectively vote for representatives.

SEC. 3. The returns of every election for governor shall be sealed up, and transmitted to the speaker of the house of representatives, who shall, during the first week of the session, open and publish them in the presence of both houses of the general assembly. The person having the highest number of votes shall be the governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of both houses. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 4. The governor shall hold his office for the term of four years from the time of his installation, and until his successor shall be duly qualified; but he shall not be eligible for more than eight years in any term of twelve years. He shall be at least thirty years of age, a native-born citizen of Arkansas, or a native-born citizen of the United States, or a resident of Arkansas ten years previous to the adoption of this constitution, if not a native of the United States; and shall have been a resident of the same at least four years next before his election.

SEC. 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive, within that period, any other emolument from the United States, or any one of them, or from any foreign power.

SEC. 6. He shall be commander-in-chief of the army of this State, and of the militia thereof, except when they shall be called into the service of the United States.

SEC. 7. He may require any information, in writing, from the officers of the executive department, on any subject relating to the duties of their respective offices.

SEC. 8. He may, by proclamation, on extraordinary occasions, convene the general assembly, at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy or from contagious diseases. In case of disagreement between the two houses with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next meeting of the general assembly.

SEC. 9. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant pardons after conviction, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law. In cases of treason, he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons; and he may, in the recess of the senate, respite the sentence until the end of the next session of the general assembly.

SEC. 12. There shall be a seal of this State, which shall be kept by the governor, and used by him officially; and the present seal of the Territory shall be the seal of the State, until otherwise directed by the general assembly.

SEC. 13. All commissions shall be in the name, and by the authority of the State of Arkansas, be sealed with the seal of the State, signed by the governor, and attested by the secretary of state.

SEC. 14. There shall be a secretary of state, elected by a joint vote of both houses of the general assembly, who shall continue in office during the term of four years, and until his successor in office be duly qualified. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before the general assembly; and shall perform such other duties as may be required by law.

SEC. 15. Vacancies that may happen in offices, the election to which is vested in the general assembly, shall be filled by the governor during the recess of the general assembly, by granting commissions, which shall expire at the end of the next session.

SEC. 16. Every bill which shall have passed both houses, shall be presented to the governor. If he approve it, he shall sign it; but if he shall not approve it, he shall return it, with his objections, to the house in which it shall have originated, who shall enter his objections at large upon their journals, and proceed to reconsider it. If, after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall be reconsidered; and if approved by a majority of the whole number elected to that house, it shall be a law; but in such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for or against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within three days, Sundays excepted, after it shall have been presented to him, the same shall be a law, in like manner as if he had

signed it, unless the general assembly, by their adjournment, prevent its return; in such cases it shall not be a law.

SEC. 17. Every order or resolution, to which the concurrence of both houses may be necessary, except on questions of adjournment, shall be presented to the governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the case of a bill.

SEC. 18. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation or absence from the State, the president of the senate shall exercise all the authority appertaining to the office of governor, until another governor shall have been elected and qualified, or until the governor, absent or impeached, shall return or be acquitted.

SEC. 19. If, during the vacancy of the office of governor, the president of the senate shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the speaker of the house of representatives shall, in like manner, administer the government.

SEC. 20. The president of the senate, and speaker of the house of representatives, during the time they respectively administer the government, shall receive the same compensation which the governor would have received, had he been employed in the duties of his office.

SEC. 21. Whenever the office of governor shall have become vacant, by death, resignation, removal from office, or otherwise, provided such vacancy shall not happen within eighteen months of the end of the term for which the late governor shall have been elected, the president of the senate, or speaker of the house of representatives, as the case may be, exercising the powers of governor for the time being, shall immediately cause an election to be held to fill such vacancy, giving, by proclamation, sixty days' previous notice thereof, which election shall be governed by the same rules prescribed for general elections of governor, as far as applicable; the returns shall be made to the secretary of state, who, in presence of the acting governor, and judges of the supreme court, or one of them, at least, shall compare them, and together with said acting governor and judges, declare who is elected: and if there be a contested election, it shall be decided by the judges of the supreme court, in manner to be prescribed by law.

SEC. 22. The governor shall always reside at the seat of government.

SEC. 23. No person shall hold the office of governor and any other office or commission, civil or military, either in this State, or under any State, or the United States, or any other power, at one and the same time.

SEC. 24. There shall be elected, by the joint vote of both houses of the general assembly, an auditor and treasurer for this State, who shall hold their offices for the term of two years, and until their respective successors are elected and qualified, unless sooner removed; and shall keep their respective offices at the seat of government, and perform such duties as shall be prescribed by law: and in case of vacancy, by death, resignation or otherwise, such vacancy shall be filled by the governor, as in other cases.

MILITIA.

SECTION 1. The militia of this State shall be divided into convenient divisions, brigades, regiments and companies, and officers of corresponding titles and rank elected to command them, conforming, as nearly as practicable, to the general regulations of the Army of the United States.

SEC. 2. Major-generals shall be elected by the brigadier-generals and field officers of their respective divisions; brigadier-generals shall be elected by the field officers and commissioned company officers of their respective brigades; field officers shall be elected by the officers and privates of their respective regiments; and captains and subaltern officers shall be elected by those subject to military duty in their respective companies.

SEC. 3. The governor shall appoint the adjutant-general and other members of his



staff, and major-generals, brigadier-generals, and commanders of regiments, shall respectively appoint their own staff: and all commissioned officers may continue in office during good behavior; and staff officers during the same time, subject to be removed by the superior officer from whom they respectively derive their commissions.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in one supreme court, in circuit courts, in county courts, and in justices of the peace; the general assembly may also vest such jurisdiction as may be deemed necessary in corporation courts, and when they deem it expedient, may establish courts of chancery.

SEC. 2. The supreme court shall be composed of three judges, one of whom shall be styled chief justice, any two of whom shall constitute a quorum, and the concurrence of any two of said judges shall, in every case, be necessary to a decision. The supreme court, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations as may, from time to time, be prescribed by law; it shall have a general superintending control over all inferior and other courts of law and equity. It shall have power to issue writs of error and *supersedeas*, *certiorari* and *habeas corpus*, *mandamus* and *quo warranto*, and other remedial writs, and to hear and determine the same. Said judges shall be conservators of the peace throughout the State. And shall severally have power to issue any of the aforesaid writs.

SEC. 3. The circuit courts shall have original jurisdiction over all criminal cases which shall not be otherwise provided for by law; and exclusive original jurisdiction of all crimes amounting to felony at the common law; and original jurisdiction of all civil cases which shall not be cognizable before justices of the peace, until otherwise directed by the general assembly; and original jurisdiction in all matters of contracts, where the sum in controversy is over one hundred dollars. It shall hold its terms at such place in each county as may be by law directed.

SEC. 4. The State shall be divided into convenient circuits, each to consist of not less than five nor more than seven counties, contiguous to each other, for each of which a judge shall be elected, who, during his continuance in office, shall reside and be a conservator of the peace within the circuit for which he shall have been elected.

SEC. 5. The circuit courts shall exercise a superintending control over the county courts, and over justices of the peace, in each county in their respective circuits; and shall have power to issue all the necessary writs to carry into effect their general and specific powers.

SEC. 6. Until the general assembly shall deem it expedient to establish courts of chancery, the circuit court shall have jurisdiction in matters of equity, subject to appeal to the supreme court, in such manner as may be prescribed by law.

SEC. 7. The general assembly shall, by joint vote of both houses, elect the judges of the supreme and circuit courts, a majority of the whole number in joint vote being necessary to a choice. The judges of the supreme court shall be at least thirty years of age; they shall hold their offices during the term of eight years from the date of their commissions. Immediately after such election, by the first general assembly, the president of the senate and speaker of the house of representatives shall proceed by lot to divide the judges into three classes. The commission of the first class shall expire at the end of four years; of the second class at the end of six years; and of the third class at the end of eight years: so that one-third of the whole number shall be chosen every four, six and eight years. The judges of the circuit court shall be at least twenty-five years of age, and shall be elected for the term of four years from the date of their commissions. The supreme court shall appoint its own clerk or clerks for the term of four years. The qualified voters of each county shall elect a clerk of the circuit court for their respective counties, who shall hold his office for the term of two years; and courts of chancery, if any be established, shall appoint their own clerks.

SEC 8. The judges of the supreme and circuit courts shall, at stated times, receive a compensation for their services, to be ascertained by law, which shall not be

diminished during the time for which they are elected. They shall not be allowed any fees or perquisites of office, nor hold any other office of trust or profit under this State or the United States. The State's attorneys, and clerks of the supreme and circuit courts, and courts of chancery, if any such be established, shall receive for their services such salaries, fees, and perquisites of office, as shall be from time to time fixed by law.

SEC. 9. There shall be established in each county in the State, a court to be holden by the justices of the peace and called the county court, which shall have jurisdiction in all matters relating to county taxes, disbursements of money for county purposes, and in every other case that may be necessary to the internal improvement and local concerns of the respective counties.

SEC. 10. There shall be elected, by the justices of the peace of the respective counties, a presiding judge of the county court, to be commissioned by the governor, and hold his office for the term of two years, and until his successor is elected and qualified. He shall, in addition to the duties that may be required of him by law, as a presiding judge of the county court, be a judge of the court of probate, and have such jurisdiction in matters relative to the estates of deceased persons, executors, administrators and guardians, as may be prescribed by law, until otherwise directed by the general assembly.

SEC. 11. The presiding judge of the county court and justices of the peace shall receive for their services such compensation and fees as the general assembly may from time to time by law direct.

SEC. 12. No judge shall preside on the trial of any cause, in the event of which he may be interested, or where either of the parties shall be connected with him by affinity or consanguinity within such degrees as may be prescribed by law, or in which he may have been of counsel, or have presided in any inferior court, except by consent of all the parties. In case all or any of the judges of the supreme court shall be thus disqualified from presiding on any cause or causes, the court or judges thereof shall certify the same to the governor of the State, and he shall immediately commission specially the requisite number of men, of law-knowledge, for the trial and determination thereof. The same course shall be pursued in the circuit and other inferior courts, as prescribed in this section for cases in the supreme court—judges of the circuit courts may temporarily exchange circuits, or hold courts for each other, under such regulations as may be pointed out by law. Judges shall not charge juries with regard to matter of fact; but may state the testimony and declare the law.

SEC. 13. The general assembly shall, by a joint vote of both houses, elect an attorney for the State for each circuit established by law, who shall continue in office two years, and reside within the circuit for which he was elected at the time of and during his continuance in office. In all cases where an attorney for the State of any circuit fails to attend and prosecute according to law, the courts shall have power to appoint an attorney *pro tempore*. The attorney for the circuit in which the supreme court may hold its terms, shall attend the supreme court and prosecute for the State.

SEC. 14. All writs and other process shall run in the name of the "*State of Arkansas*," and bear test and be signed by the clerks of the respective courts from which they issue. Indictments shall conclude "against the peace and dignity of the State of Arkansas."

SEC. 15. The qualified voters residing in each township shall elect the justices of the peace for their respective townships. For every fifty voters there may be elected one justice of the peace: *Provided*, That each township, however small, shall have two justices of the peace. Justices of the peace shall be elected for the term of two years, and shall be commissioned by the governor, and reside in the townships for which they were elected, during their continuance in the office. They shall have individually, or two or more of them jointly, exclusive original jurisdiction in all matters of contract, except in actions of covenant, where the sum in controversy is of one hundred dollars and under. Justices of the peace shall in no case have jurisdiction to try and determine any criminal case or penal offence against the State; but may sit as examining courts, and commit, discharge, or recognize to the court having jurisdiction, for further trial, of offenders against the peace. For the foregoing purposes,

they shall have power to issue all necessary process. They shall also have power to bind to keep the peace, or for good behavior.

SEC. 16. The qualified voters of each township shall elect one constable, for the term of two years, who shall, during his continuance in office, reside in the township for which he was elected. Incorporated towns may have a separate constable and a separate magistracy.

SEC. 17. The qualified voters of each county shall elect one sheriff, one coroner, one treasurer, and one county surveyor, for the term of two years. They shall be commissioned by the governor, reside in their respective counties during their continuance in office, and be disqualified for the office a second term, if it should appear that they or either of them are in default for any moneys collected by virtue of their respective offices.

ARTICLE VII.

EDUCATION.

SECTION 1. Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government—and diffusing the opportunities and advantages of education through the various parts of the State being highly conducive to this end—it shall be the duty of the general assembly to provide by law for the improvement of such lands as are or hereafter may be granted by the United States to this State for the use of schools, and to apply any funds which may be raised from such lands, or from any other source, to the accomplishment of the object for which they are or may be intended. The general assembly shall, from time to time, pass such laws as shall be calculated to encourage intellectual, scientific and agricultural improvement, by allowing rewards and immunities for the promotion and improvement of arts, science, commerce, manufactures and natural history; and countenance and encourage the principles of humanity, industry and morality.

EMANCIPATION OF SLAVES.

SECTION 1. The general assembly shall have no power to pass laws for the emancipation of slaves, without the consent of the owners. They shall have no power to prevent emigrants to this State from bringing with them such persons as are deemed slaves by the laws of any one of the United States. They shall have power to pass laws to permit owners of slaves to emancipate them, saving the right of creditors, and preventing them from becoming a public charge. They shall have power to prevent slaves from being brought to this State as merchandise, and also to oblige the owners of slaves to treat them with humanity.

GENERAL PROVISIONS.

SECTION 1. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 2. No person who denies the being of a God, shall hold any office in the civil department of this State, nor be allowed his oath in any court.

SEC. 3. No money shall be drawn from the treasury but in consequence of an appropriation by law, nor shall any appropriation of money for the support of an army be made for a longer term than two years; and a regular statement and account of the receipts and expenditures of all public moneys shall be published with the promulgation of the laws.

SEC. 4. Absence on business of this State or of the United States, or on a visit or necessary private business, shall not cause a forfeiture of a residence once obtained.

SEC. 5. No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed.

SEC. 6. Internal improvements shall be encouraged by the government of this State, and it shall be the duty of the general assembly, as soon as may be, to make provision by law for ascertaining the proper objects of improvement in relation to roads, canals and navigable waters; and it shall also be their duty to provide by law for an equal, systematic and economical application of the funds which may be appropriated to these objects.

SEC. 7. Returns for all elections for officers who are to be commissioned by the governor, and for members of the general assembly, shall be made to the secretary of state.

SEC. 8. Within five years after the adoption of this constitution, the laws, civil and criminal, shall be revised, digested and arranged, and promulgated in such manner as the general assembly may direct, and a like revision, digest and promulgation shall be made within every subsequent period of ten years.

SEC. 9. In the event of the annexation of any territory to this State, by a cession from the United States, laws may be passed extending to the inhabitants of such territory all the rights and privileges which may be required by the terms of such cession, anything in this constitution to the contrary notwithstanding.

SEC. 10. The person of a debtor, except where there is strong presumption of fraud, shall neither be imprisoned nor continued in prison, after delivering up his estate for the benefit of his creditors, in such manner as may be prescribed by law.

REVENUE.

SECTION 1. All revenue shall be raised by taxation, to be fixed by law.

SEC. 2. All property subject to taxation, shall be taxed according to its value—that value to be ascertained in such manner as the general assembly shall direct; making the same equal and uniform throughout the State. No one species of property, from which a tax may be collected, shall be taxed higher than another species of property, of equal value: *Provided*, The general assembly shall have power to tax merchants, hawkers, peddlers and privileges, in such manner as may from time to time be prescribed by law: *And provided further*, That no other or greater amount of revenue shall at any time be levied than required for the necessary expenses of the government, unless by a concurrence of two-thirds of both houses of the general assembly.

SEC. 3. No poll-tax shall be assessed for other than county purposes.

SEC. 4. No other or greater tax shall be levied on the productions or labor of the country, than may be required for expenses of inspection.

ESTABLISHMENT OF BANKS.

SECTION 1. The general assembly may incorporate one State bank, with such amount of capital as may be deemed necessary, and such number of branches as may be required for the public convenience, which shall become the repository of the funds belonging to, or under the control of the State; and shall be required to loan them out throughout the State, and in each county, in proportion to representation. And they shall further have power to incorporate one other banking institution, calculated to aid and promote the great agricultural interests of the country; and the faith and credit of the State may be pledged to raise the funds necessary to carry into operation the two banks herein specified: *Provided*, Such security can be given by the individual stockholders as will guarantee the State against loss or injury.

SCHEDULE.

SECTION 1. That no inconvenience may arise from the change of government, we declare that all writs, actions, prosecutions, judgments, claims and contracts of individuals and bodies corporate, shall continue as if no change had taken place; and all process which may be issued under the authority of the Territory of Arkansas, previous to the admission of Arkansas into the Union of the United States, shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Arkansas, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the general assembly.

SEC. 3. All fines, penalties and escheats, accruing to the Territory of Arkansas, shall accrue to the use of the State.

SEC. 4. All recognizances heretofore taken, or which may be taken before the change of territorial to a permanent State government, shall remain valid, and shall pass over to, and be prosecuted in the name of the State; and all bonds executed to the governor of the Territory, or to any other officer or court, in his or their official capacity, shall pass over to the governor or State authority, and their successors in office, for the uses therein respectively expressed; and may be sued for and recovered accordingly. All criminal prosecutions and penal actions which may have arisen, or which may arise, before the change from a territorial to a State government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State. All actions at law, which now are, or may be pending, in any of the courts of record in the Territory of Arkansas, may be commenced in, or transferred to any court of record of the State which shall have jurisdiction of the subject-matter thereof; and all suits in equity may, in like manner, be commenced in, or transferred to, the court having chancery jurisdiction.

SEC. 5. All officers, civil and military, now holding commissions under authority of the United States, or of the Territory of Arkansas, shall continue to hold and exercise their respective offices until they shall be superseded under the authority of the State.

SEC. 6. The first session of the general assembly of the State of Arkansas shall be held at the city of Little Rock, which shall be and remain the seat of government until otherwise provided for by law.

SEC. 7. Elections shall be held at the several precincts, on the first Monday of August next, for a governor; also, one Representative to the Congress of the United States; also, for senators and representatives to the next general assembly, clerks of the circuit and county courts, sheriffs, coroners, county surveyors and treasurers, justices of the peace and constables.

SEC. 8. The next general assembly shall be holden on the second Monday of September next.

SEC. 9. The election shall be conducted according to the existing laws of the Territory of Arkansas; and the returns of all township elections held in pursuance thereof, shall be made to the clerks of the proper counties, within five days after the day of election. The clerks of the circuit courts of the several counties shall immediately thereafter certify the returns of the election of governor, and transmit the same to the speaker of the house of representatives, at the seat of government, in such time that they may be received on the second Monday of September next. As soon as the general assembly shall be organized, the speaker of the house of representatives and the president of the senate shall, in the presence of both houses, examine the returns, and declare who is duly elected to fill that office; and if any two or more persons shall have an equal number of votes, and a higher number than any other person, the general assembly shall determine the election by a joint vote of both houses; and the returns of the election for member to Congress shall be made to the secretary of state, within thirty days after the day of election.

SEC. 10. The oaths of office may be administered by any judge or justice of the peace, until the general assembly shall otherwise direct.

Done in convention, at Little Rock, in the State of Arkansas, the 30th day of January, in the year of our Lord, one thousand eight hundred and thirty-six, and in the sixtieth year of the Independence of the United States of America.

JOHN WILSON,
President.

CHARLES P. BERTRAND, *Secretary.*

THE ENABLING ACT FOR THE STATE OF ARKANSAS—1836.

[TWENTY-FOURTH CONGRESS, FIRST SESSION.]

An Act for the admission of the State of Arkansas into the Union, and to provide for the due execution of the laws of the United States within the same, and for other purposes.

Whereas, the people of the Territory of Arkansas did, on the thirtieth day of January, in the present year, by a convention of delegates called and assembled for that purpose, form for themselves a constitution and State government, which constitution and State government, so formed, is republican: *And whereas* the number of inhabitants within the said Territory exceeds forty-seven thousand seven hundred persons, computed according to the rule prescribed by the Constitution of the United States; and the said convention have, in their behalf, asked the Congress of the United States to admit the said Territory into the Union as a State, on an equal footing with the original States:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Arkansas shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever; and the said State shall consist of all the territory included within the following boundaries, to wit: Beginning in the middle of the main channel of the Mississippi River, on the parallel of thirty-six degrees north latitude, running from thence west, with the said parallel of latitude, to the Saint Francis River; thence up the middle of the main channel of said river to the parallel of thirty-six degrees, thirty minutes, north; from thence west to the southwest corner of the State of Missouri; and from thence to be bounded on the west, to the north bank of Red River, by the lines described in the first article of the treaty between the United States and the Cherokee Nation of Indians, west of the Mississippi, made and concluded at the city of Washington, on the twenty-sixth day of May, in the year of our Lord one thousand eight hundred and twenty-eight; and to be bounded on the south side of Red River by the Mexican boundary-line, to the northwest corner of the State of Louisiana; thence east, with the Louisiana State line, to the middle of the main channel of the Mississippi River; thence up the middle of the main channel of the said river to the thirty-sixth degree of north latitude, the point of beginning.

SEC. 2. *And be it further enacted,* That until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 3. *And be it further enacted,* That all the laws of the United States, which are not locally inapplicable, shall have the same force and effect within the said State of Arkansas as elsewhere within the United States.

SEC. 4. *And be it further enacted,* That the said State shall be one judicial district, and be called the Arkansas district; and a district court shall be held therein, to consist of one judge, who shall reside in the said district, and be called a district judge. He shall hold, at the seat of government of the said State, two sessions annually, on the first Mondays of April and November; and he shall, in all things, have and exercise the same jurisdiction and powers which were by law given to the judge of the Kentucky district, under an act entitled "An act to establish the judicial courts of the United States." He shall appoint a clerk for the said district court, who shall reside and keep the records of the court, at the place of holding the same; and shall receive, for the services performed by him, the same fees to which the clerk of the Kentucky district is entitled for similar services.

SEC. 5. *And be it further enacted,* That there shall be allowed to the judge of the said district court the annual compensation of two thousand dollars, to commence from the date of his appointment, to be paid quarter-yearly at the Treasury of the United States.

SEC. 6. *And be it further enacted,* That there shall be appointed in the said district a person learned in the law, to act as attorney for the United States, who shall, in addition to his stated fees, be paid by the United States two hundred dollars, as a full compensation for all extra services.

SEC. 7. *And be it further enacted*, That a marshal shall be appointed for the said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, as are prescribed to marshals in other districts; and he shall, moreover, be entitled to the sum of two hundred dollars annually, as a compensation for all extra services.

SEC. 8. *And be it further enacted*, That the State of Arkansas is admitted into the Union upon the express condition, that the people of the said State shall never interfere with the primary disposal of the public lands within the said State, nor shall they levy a tax on any of the lands of the United States within the said State; and nothing in this act shall be construed as an assent by Congress to all or to any of the propositions contained in the ordinance of the said convention of the people of Arkansas, nor to deprive the said State of Arkansas of the same grants, subject to the same restrictions, which were made to the State of Missouri, by virtue of an act entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and to prohibit slavery in certain Territories," approved the sixth day of March, one thousand eight hundred and twenty.

APPROVED, June 15, 1836.

SUPPLEMENTARY ENABLING ACT FOR ARKANSAS—1836.*

[TWENTY-FOURTH CONGRESS, FIRST SESSION.]

An Act supplementary to the act entitled, "An act for the admission of the State of Arkansas into the Union, and to provide for the due execution of the laws of the United States within the same, and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in lieu of the propositions submitted to the Congress of the United States, by an ordinance passed by the convention of delegates at Little Rock, assembled for the purpose of making a constitution for the State of Arkansas, which are hereby rejected; and that the following propositions be, and the same are hereby, offered to the general assembly of the State of Arkansas, for their free acceptance or rejection, which, if accepted, under the authority granted to the general assembly for this purpose, by the convention which framed the constitution of the said State, shall be obligatory upon the United States:

First. That section numbered sixteen in every township, and, when such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State for the use of the inhabitants of such township for the use of schools.

Second. That all salt-springs not exceeding twelve in number, with six sections of land adjoining to each, shall be granted to the said State, for the use of said State, the same to be selected by the general assembly thereof on or before the first day of January, one thousand eight hundred and forty; and the same, when so selected, to be used under such terms, conditions, and regulations, as the general assembly of the said State shall direct: *Provided*, That no salt-spring, the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to

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*The following acts of Congress are in substantial modification of the enabling act, viz:

I. "An act to authorize the legislatures of the States of Illinois, Arkansas, Louisiana, and Tennessee to sell the lands heretofore appropriated for the use of schools in those States," approved February 15, 1843.

II. "An act giving the assent of Congress to a change of the compact entered into between the United States and the State of Arkansas, on her admission into the Union," approved July 29, 1846. [Authorizing the general assembly of the State to appropriate for the use and benefit of common schools, or in any other mode deemed proper, for the promotion of education, certain lands, known as "Seminary Lands," therefore, by direction of act of Congress, appropriated solely to the use and support of a university.]

III. Section 3 of "An act to give the consent of Congress to the sale of certain salt-spring lands, heretofore granted to the States of Michigan, Illinois, and Arkansas," approved March 3, 1847.

any individual or individuals, shall by this section be granted to said State: *And provided, also,* That the general assembly shall never sell or lease the same, at any one time, for a longer period than ten years, without the consent of Congress; and that nothing contained in the act of Congress entitled, "An act authorizing the governor of the Territory of Arkansas to lease the salt-springs in said Territory, and for other purposes," or in any other act, shall be construed to give to the said State any further or other claim whatsoever, to any salt-springs or lands adjoining thereto, than those hereby granted.

Third. That five per cent. of the net proceeds of the sale of lands lying within the said State, and which shall be sold by Congress from and after the first day of July next, after deducting all expenses incident to the same, shall be reserved for making public roads and canals within the said State, under the direction of the general assembly thereof.

Fourth. That a quantity of land not exceeding five sections be, and the same is hereby, granted to the said State, in addition to the ten sections which have already been granted, for the purpose of completing the public buildings of the said State, at Little Rock; which said five sections shall, under the direction of the general assembly of said State, be located, at any time, in legal divisions of not less than one quarter-section, in such townships and ranges as the general assembly aforesaid may select, on any of the unappropriated lands of the United States within the said State.

Fifth. That the two entire townships of land which have already been located by virtue of the act entitled "An act concerning a seminary of learning in the Territory of Arkansas," approved the second of March, one thousand eight hundred and twenty-seven, are hereby vested in, and confirmed to, the general assembly of the said State, to be appropriated solely to the use of such seminary by the general assembly: *Provided,* That the five foregoing propositions herein offered are on the condition that the general assembly or legislature of the said State, by virtue of the powers conferred upon it by the convention which framed the constitution of the said State, shall provide, by an ordinance irrevocable without the consent of the United States, that the said general assembly of said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona-fide* purchasers thereof; and that no tax shall be imposed on lands the property of the United States; and that in no case shall non-resident proprietors be taxed higher than residents; and that the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, whilst they continue to be held by the patentees or their heirs, remain exempt from any tax laid by order or under the authority of the State, whether for State, county, township, or any other purpose, for the term of three years from and after the date of the patents respectively.

APPROVED, June 23, 1836.

ORDINANCE OF ACCEPTANCE BY ARKANSAS—1836.

Ordinance and acceptance of compact by the general assembly of the State of Arkansas.

Be it ordained by the general assembly of the State of Arkansas, By virtue of the authority vested in said general assembly by the provisions of the ordinance adopted by the convention of delegates assembled at Little Rock, for the purpose of forming a constitution and system of government for said State, that the propositions set forth in "An act supplementary to the act entitled 'An act for the admission of the State of Arkansas into the Union, and to provide for the due execution of the laws of the United States within the same, and for other purposes,'" be, and the same are hereby, freely accepted, ratified, and irrevocably confirmed, as articles of compact and union between the State of Arkansas and the United States.

And be it further ordained by the authority aforesaid, That the general assembly of the State of Arkansas shall never interfere, without the consent of the United States, with the primary disposal of the soil within said State, owned by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona-fide* purchasers thereof; and that no tax shall be imposed on lands the property of the United States; and that in no case shall non-resident proprietors be taxed higher than resident; and that the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt from any tax laid by order, or under the authority, of the State, whether for State, county, township, or any other purpose, for the term of three years from and after the date of the patents respectively.

APPROVED, October 18, 1836.

AMENDMENTS TO THE CONSTITUTION OF 1836.

RATIFIED NOVEMBER 17, 1846.

ARTICLE I. No bank or banking institution shall be hereafter incorporated, or established in this State.

ART. II. The general assembly shall have power to compel the judges of the circuit courts to interchange circuits either temporarily or permanently, under such regulations as may be provided by law.

ART. III. The general assembly shall have power to confer such jurisdiction as it may from time to time deem proper, on justices of the peace in all matters of contracts, covenants, and in actions for the recovery of fines and forfeitures, when the amount claimed does not exceed one hundred dollars, and in actions and prosecutions for assault and battery, and other penal offences, less than felony, which may be punishable by fine only.

ART. IV. Judges of the supreme and circuit courts, clerks of the supreme and circuit courts, attorneys for the State, sheriffs, coroners, county treasurers, justices of the peace, constables, and all other officers whose term is fixed by the constitution to a specific number of years, shall hold their respective offices for the term now specified, and until their successors are elected and qualified.

RATIFIED NOVEMBER 24, 1848.

ART. V. That the qualified voters of each judicial circuit in the State of Arkansas, shall elect their circuit judge.

ART. VI. That the qualified voters of each judicial circuit shall elect their prosecuting attorney for the State.

ART. VII. That the qualified voters of each county shall elect a county and probate judge.

ART. VIII. That no member of the general assembly shall be elected to any office within the gift of the general assembly during the term for which he shall have been elected.

ART. IX. That the general assembly of the State of Arkansas shall not be restricted, as to the number of counties that shall compose a judicial circuit in this State.

RATIFIED DECEMBER 2, 1850.

ART. X. That the words "except Washington County, which may be reduced to six hundred square miles," included in brackets in the XXIXth article,* be stricken out of said constitution.

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*There was no XXIXth article of the constitution of 1836. The senate journal of 1850 shows the amendment to have been of the 29th section of article IV.



RATIFIED FEBRUARY 12, 1859.

ART. XI. That section 29 of article IV of the constitution of this State be so amended that no county now established by law shall be deemed or considered unconstitutional on account of its containing a less number of square miles than nine hundred.

RATIFIED FEBRUARY 12, 1859.

ART. XII. The 22d section of the IVth article of the constitution is hereby stricken out and repealed, and instead thereof the following shall be inserted as an amendment to and part of the constitution: The State of Arkansas shall not be sued in any of its courts.

CONSTITUTION OF ARKANSAS—1861.

[A State convention, which met at Little Rock, passed an ordinance of secession on the 6th of May, 1861, and on the 22d amended the State constitution of 1836 by inserting the words "Confederate States" in place of "United States," with a few other unimportant changes. These amendments were not submitted to the people.]

CONSTITUTION OF ARKANSAS—1864.*

We, the people of the State of Arkansas, having the right to establish for ourselves a constitution in conformity with the Constitution of the United States of America, recognizing the legitimate consequences of the existing rebellion, do hereby declare the entire action of the late convention of the State of Arkansas, which assembled in the city of Little Rock, on the fourth day of March, one thousand eight hundred and sixty-one, was, and is, null and void, and is not now, and never has been, binding and obligatory upon the people.

That all the action of the State of Arkansas, under the authority of said convention, of its ordinances, or of its constitution, whether legislative, executive, judicial or military, (except as hereinafter provided,) was, and is hereby declared null and void: *Provided*, That this ordinance shall not be so construed as to affect the rights of individuals, or change county boundaries, or county seats, or to make invalid the acts of justices of the peace, or other officers in their authority to administer oaths, or take and certify the acknowledgment of deeds of conveyance or other instruments of writing, or in the solemnization of marriages: *And provided frther*, That no debt or liability of the State of Arkansas incurred by the action of said convention, or of the legislature or any department of the government under the authority of either, shall ever be recognized as obligatory.

And we, the people of the State of Arkansas, in order to establish therein a State government, loyal to the Government of the United States—to secure to ourselves and our posterity, the protection and blessings of the Federal Constitution, and the enjoyment of all the rights of liberty and the free pursuit of happiness, do agree to continue ourselves as a free and independent State, by the name and style of "the State of Arkansas," and do ordain and establish the following constitution for the government thereof:

* On the 4th of January, 1864, and subsequent to the occupation by the forces of the United States of a portion of the State, a mass convention of the people assembled at Little Rock, and on the 19th of January, 1864, pr posed this constitution to the people. It was ratified by 12,177 votes against 266 votes.

ARTICLE I.

BOUNDARIES OF THE STATE.

We do declare and establish, ratify and confirm the following as the permanent boundaries of the State of Arkansas, that is to say: Beginning in the middle of the Mississippi River, on the parallel of thirty-six degrees north latitude, to the Saint Francis River; thence up the middle of the main channel of said river, to the parallel of thirty-six degrees, thirty minutes, north, from the west to the southwest corner of the State of Missouri; and from thence to be bounded on the west to the north bank of Red River, as by acts of Congress of the United States, and the treaties heretofore defining the western limits of the Territory of Arkansas; and to be bounded on the south side of Red River by the boundary-line of the State of Texas, to the northwest corner of the State of Louisiana; thence east with the Louisiana State line, to the middle of the main channel of the Mississippi River; thence up the middle of the main channel of said river, to the thirty-sixth degree of north latitude, the point of beginning—these being the boundaries of the State of Arkansas as defined by the constitution thereof, adopted by a convention of the representatives of the people of said State, on the thirtieth day of January, anno Domini, eighteen hundred and thirty-six, being the same boundaries which limited the area of the Territory of Arkansas as it existed prior to that time.

ARTICLE II.

DECLARATION OF RIGHTS.

That the great and essential principles of liberty and free government may be unalterably established, we declare:

SECTION 1. That all men, when they form a social compact, are equal, and have certain inherent and indefeasible rights, amongst which are those of enjoying and defending life and liberty; of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

SEC. 2. That all power is inherent in the people; and all free governments are founded on their authority, and instituted for their peace and happiness. For the advancement of these ends, they have, at all times, an unqualified right to alter, reform, or abolish their government in such manner as they may think proper.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; and no man can, of right, be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent; that no human authority can, in any case whatever, interfere with the rights of conscience; and that no preference shall ever be given to any religious establishment or mode of worship.

SEC. 4. That the civil rights, privileges or capacities of any citizen shall in no wise be diminished or enlarged on account of his religion.

SEC. 5. That all elections shall be free and equal.

SEC. 6. That the right of trial by jury shall remain inviolate.

SEC. 7. That printing-presses shall be free to every person; and no law shall ever be made to restrain the rights thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write and print, on any subject—being responsible for the abuse of that liberty.

SEC. 8. In prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence, and in all indictments for libels, the jury shall have the right to determine the law and the facts.

SEC. 9. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable seach and seizures; and that general warrants, whereby any officer may be commanded to search suspected places without evidence of the

fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and shall not be granted.

SEC. 10. That no man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the judgment of his peers or the law of the land.

SEC. 11. That in all criminal prosecutions, the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or presentment, a speedy public trial by an impartial jury of the county or district in which the crime may have been committed; and shall not be compelled to give evidence against himself.

SEC. 12. That no person shall for the same offence, be twice put in jeopardy of life or limb.

SEC. 13. That all penalties shall be reasonable, and proportioned to the nature of the offence.

SEC. 14. That no man shall be put to answer any criminal charge, but by presentment, indictment or impeachment, except as hereinafter provided.

SEC. 15. That no conviction shall work corruption of blood or forfeiture of estate, under any law of this State.

SEC. 16. That all prisoners shall be bailable by sufficient securities, unless in capital offences, where the proof is evident or the presumption great. And the privilege of the writ of *habeas corpus* shall not be suspended, unless where in case of rebellion or invasion the public safety may require it.

SEC. 17. That excessive bail shall in no case be required, nor excessive fines imposed.

SEC. 18. That no *ex post facto* law, or law impairing the obligations of contracts shall ever be made.

SEC. 19. That perpetuities and monopolies are contrary to the genius of a republic, and shall not be allowed; nor shall any hereditary emoluments, privileges or honors, ever be granted or conferred in this State.

SEC. 20. That the citizens have a right, in a peaceable manner, to assemble together for their common good to instruct their representatives, and to apply to those invested with the power of the government for redress of grievances or other proper purposes, by address or remonstrance.

SEC. 21. That the free white men of this State shall have a right to keep and to bear arms for their common defence.

SEC. 22. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner prescribed by law.

SEC. 23. The military shall be kept in strict subordination to the civil power.

SEC. 24. This enumeration of rights shall not be construed to deny or disparage others retained by the people, and to guard against any encroachments on the rights herein retained, or any transgression of any of the higher powers herein delegated, we declare that everything in this article is excepted out of the general powers of the government, and shall forever remain inviolate; and that all laws contrary thereto, or to the other provisions herein contained, shall be void.

ARTICLE III.

OF DEPARTMENTS.

SECTION 1. The power of the government of the State of Arkansas shall be divided into three distinct departments, each of them to be confided to a separate body of magistracy, to wit: Those which are legislative to one; those which are executive to another; and those which are judicial to another.

SEC. 2. No person or collection of persons being of one of those departments, shall exercise any power belonging to either of the others, except in the instances hereinafter expressly directed or permitted.



ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be invested in a general assembly, which shall consist of a senate and house of representatives.

QUALIFICATION OF ELECTORS.

SEC. 2. Every free white male citizen of the United States who shall have attained the age of twenty-one years, and who shall have been a citizen of the State six months next preceding the election, shall be deemed a qualified elector, and be entitled to vote in the county or district where he actually resides, or in case of volunteer soldiers, within their several military departments or districts, for each and every office made elective under the State or under the United States: *Provided*, That no soldier, seaman or marine in the Regular Army or Navy of the United States shall be entitled to vote at any election within the State in time of peace: *And provided further*, That any one entitled to vote in this State in the county where he resides, may vote for the adoption or rejection of this constitution in any county in this State.

TIME OF CHOOSING REPRESENTATIVES.

SEC. 3. The house of representatives shall consist of members to be chosen every second year by the qualified electors of the several counties.

QUALIFICATIONS OF A REPRESENTATIVE.

SEC. 4. No person shall be a member of the house of representatives who shall not have attained the age of twenty-five years; who shall not be a free white male citizen of the United States; who shall not have been an inhabitant of this State one year; and who shall not, at the time of his election, have an actual residence in the county he may be chosen to represent.

QUALIFICATIONS OF A SENATOR.

SEC. 5. The senate shall consist of members to be chosen every four years, by the qualified electors of the several districts.

SEC. 6. No person shall be a senator who shall not have attained the age of twenty-five years; who shall not be a free, white male citizen of the United States; who shall not have been an inhabitant of this State one year; and who shall not, at the time of his election, have an actual residence in the district he may be chosen to represent.

SEC. 7. The general assembly shall meet every two years, on the first Monday in November, at the seat of government, until changed by law, except that the general assembly for the year 1864, shall meet on the second Monday in April of that year.

MODE OF ELECTION AND TIME AND PRIVILEGES OF ELECTORS.

SEC. 8. All general elections shall be *viva voce* until otherwise directed by law, and commence and be holden every two years, on the first Monday in August, until altered by law, (except that) the first election under this constitution shall be held on the second Monday in March, 1864, and the electors in all cases, except in cases of treason, felony and breach of the peace, shall be privileged from arrest during their attendance on elections and in going to and returning therefrom.

DUTY OF GOVERNOR.

SEC. 9. The governor shall issue writs of election to fill such vacancies as shall occur in either house of the general assembly.

SEC. 10. No judge of the supreme, circuit, or inferior courts of law, or equity,

secretary of state, attorney-general of the State, district attorneys, State auditor or treasurer, register or recorder, clerk of any court of record, sheriff, coroner or member of Congress, nor any other person holding any lucrative office under the United States or this State, (militia officers, justices of the peace, postmasters and judges of the county courts excepted,) shall be eligible to a seat in either house of the general assembly.

SEC. 11. No person who now is, or shall be hereafter, a collector or holder of public money, nor any assistant or deputy of such holder or collector of public money, shall be eligible to a seat in either house of the general assembly, nor to any office of trust or profit; until he shall have accounted for and paid over all sums for which he may have been liable.

SEC. 12. The general assembly shall exclude from every office of trust or profit, and from the right of suffrage within this State, all persons convicted of bribery, or perjury, or other infamous crime.

SEC. 13. Every person who shall have been convicted, either directly or indirectly, of giving or offering any bribe to procure his election or appointment, shall be disqualified from holding any office of trust or profit under this State; and any person who shall give or offer any bribe to procure the election or appointment of any person, shall, on conviction thereof, be disqualified from being an elector, or from holding office of trust or profit under this State.

SEC. 14. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office under this State which shall have been created, or the emoluments of which shall have been increased during his continuance in office, except to such office as shall be filled by the election of the people.

SEC. 15. Each house shall appoint its own officers and shall judge of the qualifications, returns and elections of its own members. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house shall provide.

SEC. 16. Each house may determine the rules of its proceedings, punish its own members for disorderly behavior, and, with the concurrence of two-thirds of the members elected, expel a member; but no member shall be expelled a second time for the same offence. They shall each, from time to time, publish a journal of their proceedings, except such parts as may require secrecy; and the yeas and nays upon any question shall be entered on the journal at the desire of any five members.

SEC. 17. The door of each house, when in session or in committee of the whole, shall be kept open, except in cases which may require secrecy; and each house may punish, by fine and imprisonment, any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence during their session, but such imprisonment shall not extend beyond the final adjournment of that session.

SEC. 18. Bills may originate in either house, and be amended or rejected in the other, and every bill for an act shall be read three times before each house, twice at length, and in no case shall a bill be read more than twice on one day; and the vote upon the passage of any law shall, in all cases, be taken by yeas and nays, and by recording the same; and every bill having passed both houses, shall be signed by the president of the senate and the speaker of the house of representatives.

SEC. 19. Whenever an officer, civil or military, shall be appointed by the joint or concurrent vote of both houses, or by the separate vote of either house of the general assembly, the vote shall be taken *viva voce*, and entered on the journal.

SEC. 20. The senators and representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during the session of the general assembly, and for fifteen days before the commencement and after the termination of each session; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 21. The members of the general assembly shall severally receive from the public treasury, compensation for their services, which may be increased or diminished; but no alteration of such compensation of members shall take effect during the session at which it is made.



MANNER OF BRINGING SUITS AGAINST THE STATE.

SEC. 22. The general assembly shall direct by law, in what courts, and in what manner suits may be commenced against the State.

SEC. 23. The general assembly shall not have power to pass any bill of divorce, but may prescribe by law the manner in which such cases may be investigated in the courts of justice, and divorces granted.

SEC. 24. The governor, lieutenant-governor, secretary of state, auditor, treasurer, and all judges of the supreme, circuit and inferior courts of law and equity, and the prosecuting attorneys for the State, shall be liable to impeachment for any malpractice or misdemeanor in office, but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of trust or profit under this State. The party impeached, whether convicted or acquitted, shall nevertheless be liable to be indicted, tried and punished according to law.

SEC. 25. The house of representatives shall have the sole power of impeachment, and all impeachments shall be tried by the senate; and when sitting for that purpose, the senators shall be on oath or affirmation to do justice according to law and evidence. When the governor shall be tried, the chief justice of the supreme court shall preside, and no person shall be convicted without the concurrence of two-thirds of all the senators elected; and for reasonable cause which shall not be sufficient ground for impeachment, the governor shall, on the joint address of two-thirds of each branch of the legislature, remove from office the judges of the supreme and inferior courts: *Provided*, The cause or causes of removal be spread on the journals, and the party charged be notified of the same, and heard by himself and counsel before the vote is finally taken and decided.

SEC. 26. The appointment of all officers, not otherwise directed by this constitution, shall be made in such manner as may be prescribed by law; and all officers, both civil and military, acting under the authority of this State, shall, before entering on the duties of their respective offices, take an oath or affirmation to support the Constitution of the United States and of this State, and to demean themselves faithfully in office.

SEC. 27. No county now established by law shall ever be reduced by the establishment of any new county or counties, to less than six hundred square miles, nor to a less population than its ratio of representation in the house of representatives; nor shall any county be hereafter established which shall contain less than six hundred square miles, or a less population than would entitle each county to a member in the house of representatives.

SEC. 28. The style of the laws of this State shall be—"*Be it enacted by the general assembly of the State of Arkansas.*"

SEC. 29. The State shall from time to time be divided into convenient districts, in such manner that the senate shall be based upon the free, white male inhabitants of the State, each senator representing an equal number as nearly as practicable; and the senate shall never consist of less than seventeen nor more than thirty-three members; and as soon as the senate shall meet after the first election to be held under this constitution, they shall cause the senators to be divided by lot into two classes, nine of the first class and eight of the second; and the seats of the first class shall be vacated at the end of two years from the time of their election; and the seats of the second class at the end of four years from the time of their election, in order that one class of the senators may be elected every two years.

SEC. 30. An enumeration of the inhabitants of the State shall be taken under the direction of the general assembly on the first day of January, one thousand eight hundred and sixty-five, and at the end of every ten years thereafter; and the general assembly shall, at the first session after the return of every enumeration, so alter and arrange the senatorial districts, that each district shall contain, as nearly as practicable, an equal number of free white male inhabitants.

SEC. 31. The ratio of representation in the senate shall be fifteen hundred free white male inhabitants to each senator, until the senators amount to twenty-five in number, and then they shall be equally apportioned upon the same basis throughout

the State, in such ratio as the increased number of free white male inhabitants may require, without increasing the senators to a greater number than twenty-five, until the population of the State amounts to five hundred thousand souls; and when an increase of senators takes place, they shall, from time to time, be divided by lot, and be classed as prescribed above.

SEC. 32. The house of representatives shall consist of not less than fifty-four, nor more than one hundred representatives, to be apportioned among the several counties in this State, according to the number of free white male inhabitants therein, taking five hundred as the ratio, until the number of representatives amounts to seventy-five; and when they amount to seventy-five, they shall not be further increased until the population of the State amounts to five hundred thousand souls: *Provided*, That each county now organized, shall, although its population may not give the existing ratio, always be entitled to one representative; and at the first session of the general assembly, after the return of every enumeration, the representation shall be equally divided and re-apportioned among the several counties, according to the number of free white males in each county, as above prescribed.

MODE OF AMENDING THE CONSTITUTION.

The general assembly may, at any time, propose such amendments to this constitution as two-thirds of each house shall deem expedient, which shall be published in all the newspapers published in this State, three several times, at least twelve months before the next general election; and if, at the first session of the general assembly after such general election, two-thirds of each house shall, by yeas and nays, ratify such proposed amendments, they shall be valid to all intents and purposes as parts of this constitution: *Provided*, That such proposed amendments shall be read on three several days in each house, as well when the same are proposed as when they are finally ratified.

ARTICLE V.

ABOLISHMENT OF SLAVERY.

SECTION 1. Neither slavery nor involuntary servitude shall hereafter exist in this State, otherwise than for the punishment of crime, whereof the party shall have been convicted by due process of law; nor shall any male person, arrived at the age of twenty-one years, nor female arrived at the age of eighteen years, be held to serve any person as a servant, under any indenture or contract hereafter made, unless such person shall enter into such indenture or contract while in a state of perfect freedom, and on condition of a *bona-fide* consideration received, or to be received for their services.

Nor shall any indenture of any negro or mulatto hereafter made and executed out of this State, or if made in this State, where the term of service exceeds one year, be of the least validity, except those given in case of apprenticeship, which shall not be for a longer term than until the apprentice shall arrive at the age of twenty-one years, if a male, or the age of eighteen years, if a female.

ARTICLE VI.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled "the governor of Arkansas."

SEC. 2. The governor shall be elected by the qualified electors, at the time, and places where they shall respectively vote for representatives.

SEC. 3. The returns of every election for governor, except those of the election of eighteen hundred and sixty-four, which shall be sealed and directed, as ordered in the schedule appended to this constitution, shall be sealed up and transmitted to the speaker of the house of representatives, who shall, during the first week of the session, open and publish them in the presence of both houses of the general

assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 4. The governor shall hold his office for the term of four years from the time of his installation, and until his successor shall be duly qualified, but he shall not be eligible for more than eight years in any term of twelve years; he shall be at least thirty years of age, a native-born citizen of Arkansas, or a native-born citizen of the United States, or a resident of Arkansas ten years previous to the adoption of this constitution, if not a native of the United States, and shall have been a resident of the same at least four years next before his election.

SEC. 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive, within that period, any other emolument from the United States, or any one of them, or from any foreign power.

SEC. 6. He shall be commander-in-chief of the army of this State, and of the militia thereof, except when they shall be called into the service of the United States.

SEC. 7. He may require any information, in writing, from the officers of the executive department on any subject relating to the duties of their respective offices.

SEC. 8. He may, by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy, or from contagious diseases. In case of disagreement between the two houses, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next meeting of the general assembly.

SEC. 9. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration, such measures as he may deem expedient.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant pardons, after conviction, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law. In cases of treason, he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons, and he may, in the recess of the senate, respite the sentence until the end of the next session of the general assembly.

SEC. 12. There shall be a seal of this State, which shall be kept by the governor, and used by him officially.

SEC. 13. All commissions shall be in the name and by the authority of the State of Arkansas, be sealed with the seal of this State, signed by the governor, and attested by the secretary of state.

SEC. 14. There shall be elected a secretary of state by the qualified voters of the State, who shall continue in office during the term of four years, and until his successor in office be duly qualified; he shall keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before the general assembly, and shall perform such other duties as may be required by law.

SEC. 15. Vacancies that may happen in offices, the election of which is vested in the general assembly, shall be filled by the governor, during the recess of the general assembly, by granting commissions, which shall expire at the end of the next session.

SEC. 16. Vacancies that may occur in offices, the election to which is vested in the people, within less than one year before the expiration of their term, shall be filled by the governor granting commissions, which shall expire at the end of the next term; but if one year or a longer period remains unexpired at the time of the vacancy, then, and in that case, the governor shall order an election to be held to fill the vacancy.

SEC. 17. Every bill which shall have passed both houses shall be presented to the governor; if he approve it, he shall sign it; but if he shall not approve it, he shall return it, with his objections, to the house in which it shall have originated, who shall enter his objections at large upon their journals, and proceed to reconsider it. If,

after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall be reconsidered; and if approved by a majority of the whole number elected to that house, it shall be a law; but in such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill, shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within three days, Sundays excepted, after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return; in such case it shall not be a law.

Sec. 18. Every order or resolution, to which the concurrence of both houses may be necessary, except on questions of adjournment, shall be presented to the governor before it shall take effect, be approved by him, or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the case of a bill.

Sec. 19. A lieutenant-governor shall be chosen at every election for governor, in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant-governor, the electors shall distinguish for whom they vote as governor, and for whom as lieutenant-governor.

Sec. 20. He shall, by virtue of his office, be president of the senate, have a right, when in committee of the whole, to debate, and, whenever the senate are equally divided, shall give the casting vote.

Sec. 21. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senate shall elect one of their own members as president for that occasion; and if, during the vacancy of the office of the governor, the lieutenant-governor shall be impeached, removed from office, refuse to qualify, or resign, or die, or be absent from the State, the president of the senate shall, in like manner, administer the government.

Sec. 22. The lieutenant-governor, while he acts as president of the senate, shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more; and during the time he administers the government, as governor, he shall receive the same compensation which the governor would have received had he been employed in the duties of his office.

Sec. 23. In case of an impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the lieutenant-governor shall exercise all the power and authority appertaining to the office of governor, until the time pointed out by this constitution for the election of a governor shall arrive, unless the general assembly shall provide by law for the election of governor to fill such vacancy.

Sec. 24. The governor shall always reside at the seat of government.

Sec. 25. No person shall hold the office of governor or lieutenant-governor, and any other office or commission, civil or military, either in this State or under any State, or the United States, or any other power, at one and the same time.

Sec. 26. There shall be elected, by the qualified voters of this State, an auditor and treasurer for this State, who shall hold their offices for the term of two years, and until their respective successors are elected and qualified, unless sooner removed; and shall keep their respective offices at the seat of government, and shall perform such duties as shall be prescribed by law; and in case of vacancy by death, resignation or otherwise, such vacancy shall be filled by the governor as in other cases.

MILITIA.

Section 1. The militia of this State shall be divided into convenient divisions, brigades, regiments and companies, and officers of corresponding titles and rank elected to command them, conforming, as nearly as practicable, to the general regulations of the Army of the United States; and all officers shall be elected by those subject to military duty in their several districts, except as hereinafter provided.

Sec. 2. The governor shall appoint the adjutant-general and other members of his staff, and major-generals, brigadier-generals, and commanders of regiments, shall

respectively appoint their own staff; and all commissioned officers may continue in office during good behavior, and staff officers during the same time, subject to be removed by the superior officer from whom they respectively derive their commissions.

ARTICLE VII.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in one supreme court, in circuit courts, in county courts, and in justices of the peace. The general assembly may also vest such jurisdiction as may be deemed necessary in corporation courts, and when they deem it expedient, may establish courts of chancery.

SEC. 2. The supreme court shall be composed of three judges, one of whom shall be styled chief justice, any two of whom shall constitute a quorum, and the concurrence of any two of said judges shall, in every case, be necessary to a decision.

The supreme court, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only, which shall be co extensive with the State, under such restrictions and regulations as may, from time to time, be prescribed by law.

It shall have a general superintending control over all inferior and other courts of law and equity. It shall have power to issue writs of error, *supersedeas*, *certiorari* and *habeas corpus*, *mandamus* and *quo warranto*, and other remedial writs, and to hear and determine the same. Said judges shall be conservators of the peace throughout the State, and shall have power to issue any of the aforesaid writs.

SEC. 3. The circuit court shall have original jurisdiction over all criminal cases which shall not be otherwise provided for by law; and exclusive original jurisdiction of all crimes amounting to felony at the common law, and original jurisdiction of all civil cases which shall not be cognizable before justices of the peace, until otherwise directed by the general assembly; and original jurisdiction in all matters of contract, where the sum in controversy is over two hundred dollars. It shall hold its terms at such place in each county as may be by law directed.

SEC. 4. The State shall be divided into convenient circuits, each to consist of not less than five nor more than seven counties contiguous to each other, for each of which a judge shall be elected, who, during his continuance in office, shall reside and be a conservator of the peace, within the circuit for which he shall have been elected.

SEC. 5. The circuit courts shall exercise a superintending control over the county courts, and over justices of the peace in each county, in their respective circuits, and shall have power to issue all the necessary writs to carry into effect their general and specific powers.

SEC. 6. Until the general assembly shall deem it expedient to establish courts of chancery, the circuit courts shall have jurisdiction in matters of equity, subject to appeal to the supreme court, in such manner as may be prescribed by law.

SEC. 7. The qualified voters of this State shall elect the judges of the supreme court; the judges of the supreme court shall be at least thirty years of age; they shall hold their offices during the term of eight years from the date of their commissions, and until their successors are elected and qualified.

Immediately after such election by the people, the lieutenant-governor and speaker of the house of representatives shall proceed, by lot, to divide the judges into three classes. The commission of the first class shall expire at the end of four years; of the second class at the end of six years; and of the third class at the end of eight years; so that one-third of the whole number shall be chosen every four, six and eight years.

SEC. 8. The qualified voters of each judicial district shall elect a circuit judge. The judges of the circuit court shall be at least twenty-five years of age, and shall be elected for the term of four years from the date of their commissions, and shall serve until their successors are elected and qualified.

SEC. 9. The supreme court shall appoint its own clerk or clerks, for the term of four years. The qualified voters of each county shall elect a clerk of the circuit

court for the respective counties, who shall hold his office for the term of two years, and until his successor is elected and qualified, and courts of chancery, if any be established, shall appoint their own clerks.

SEC. 10. The judges of the supreme courts and circuit courts shall, at stated times, receive a compensation for their services, to be ascertained by law, which shall not be diminished during the time for which they are elected. They shall not be allowed any fees or perquisites of office, nor hold any other office of trust or profit under this State or the United States. The attorney-general, the State's attorneys, and clerks of the supreme and circuit courts, and courts of chancery, if any such be established, shall receive for their services such salaries, fees and perquisites of office, as shall, from time to time, be fixed by law.

SEC. 11. There shall be established in each county in the State, a court to be holden by the justices of the peace, a court called the county court, which shall have jurisdiction in all matters relating to taxes, disbursements of money for county purposes, and in every other case that may be necessary to the internal improvement and local concerns of the respective counties.

SEC. 12. The qualified voters of each county shall elect a county and probate judge, who shall hold his office for two years, and until his successor is elected and qualified. He shall, in addition to the duties that may be required of him by law, as a presiding judge of the county court, be a judge of the court of probate, and have such jurisdiction in matters relating to the estates of deceased persons, executors, administrators and guardians, as may be prescribed by law, until otherwise directed by the general assembly.

SEC. 13. The presiding judge of the probate and county court, and justices of the peace, shall receive for their services such compensation and fees as the general assembly may from time to time by law direct.

SEC. 14. No judge shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or in which he may have been counsel, or have presided in any inferior court, except by consent of all the parties. In case all or any of the judges of the supreme court shall be thus disqualified from presiding on any cause or causes, the court or judges thereof shall certify the same to the governor of the State, and he shall immediately commission, specially, the requisite number of men of law-knowledge, for the trial and determination thereof. The same course shall be pursued in the circuit and inferior courts as prescribed in this section for cases of the supreme court. Judges of the circuit courts may temporarily exchange circuits, or hold courts for each other, under such regulations as may be pointed out by law. Judges shall not charge juries with regard to matter of fact, but may state the testimony and declare the law.

SEC. 15. The qualified voters thereof shall elect an attorney for the State, for each judicial circuit established by law, who shall continue in office two years, and until his successor is elected and qualified, and reside within the circuit for which he was elected at the time of, and during his continuance in office. In all cases where an attorney for the State, of any circuit, fails to attend and prosecute, according to law, the court shall have power to appoint an attorney *pro tempore*.

SEC. 16. The qualified voters of this State shall elect an attorney-general, whose salary shall be the same as that of circuit judge, who shall be learned in the law; who shall be at least thirty years of age, and shall hold his office for the term of four years from the date of his commission, and until his successor is elected and qualified; and whose duty it shall be to prosecute the State's pleas before the supreme court, and give his opinion, in writing, on all questions of law or equity, when required by the governor or other officer of the State, and perform such other duties as may be prescribed by law.

SEC. 17. All writs and other process shall run in the name of the "*State of Arkansas*," and bear teste and be signed by the clerks of the respective courts from which they issue. Indictments shall conclude "against the peace and dignity of the State of Arkansas."

SEC. 18. The qualified voters residing in each township shall elect the justices of the peace for each township. For every one hundred voters there may be elected one justice of the peace: *Provided*, That each township, however small, shall have two

justices of the peace. Justices of the peace shall be elected for the term of two years, and shall hold their offices until their successors are elected and qualified; shall be commissioned by the governor, and shall reside in the township for which they are elected during their continuance in office. The first election for justices of the peace shall take place on the second Monday in March, one thousand eight hundred and sixty-four, and the second election on the first Monday in August, one thousand eight hundred and sixty-six, and at the regular elections thereafter. Justices of the peace, individually, or two or more of them jointly, shall have original jurisdiction in cases of bastardy, and in all matters of contract, and actions for the recovery of fines and forfeiture where the amount claimed does not exceed two hundred dollars, and concurrent jurisdiction with circuit courts where the amount claimed exceeds one hundred dollars, and does not exceed two hundred dollars, and such jurisdiction as may be provided by law in actions *ex delicto*, where the damages claimed do not exceed one hundred dollars, and prosecutions for assault and battery and other penal offences less than felony, punishable by fine only. Every action cognizable before a justice of the peace, instituted by summons or warrant, shall be brought before some justice of the peace of the township where the defendant resides. They may also sit as examining courts, and commit, discharge, or recognize any person charged with any crime of any grade. For the foregoing purposes they shall have power to issue all necessary process. They shall also have power to bind, to keep the peace, or for good behavior.

SEC. 19. The qualified voters of each township shall elect one constable for the term of two years, who shall hold his office till his successor is elected and qualified, who shall, during his continuance in office, reside in the township for which he was elected. Incorporated towns may have a separate constable and a separate magistracy.

SEC. 20. The qualified voters of each county shall elect one sheriff, one coroner, and one county surveyor, for the term of two years, and until their successors are elected. They shall be commissioned by the governor, reside in their respective counties during their continuance in office, and be disqualified for the office a second term, if it should appear that they or either of them are in default for moneys collected by virtue of their respective offices.

ARTICLE VIII.

GENERAL PROVISIONS—EDUCATION.

SECTION 1. Knowledge and learning generally diffused throughout a community, being essential to the preservation of a free government, and diffusing the opportunities and advantages of education through the various parts of the State, being highly conducive to this end, it shall be the duty of the general assembly to provide by law for the improvement of such lands as are or hereafter may be granted by the United States to this State for the use of schools, and to apply any funds which may be raised from such lands, or from any other source, to the accomplishment of the object for which they are or may be intended. The general assembly shall, from time to time, pass such laws as shall be calculated to encourage intellectual, scientific and agricultural improvement, by allowing rewards and immunities for the promotion and improvement of arts, science, commerce, manufactures, and natural history, and countenance and encourage the principles of humanity, industry and morality.

SEC. 2. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 3. No person who denies the being of a God shall hold any office in the civil department of this State, nor be allowed his oath in any court.

SEC. 4. No money shall be drawn from the treasury but in consequence of an appropriation by law; nor shall any appropriation of money for the support of the army be made for a longer term than two years; and a regular statement and account of the receipts and expenditures of all public money shall be published with the promulgation of the laws.

SEC. 5. Absence on business of this State, or of the United States, or on a visit, or necessary private business, shall not cause a forfeiture of a residence once obtained.

SEC. 6. No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed.

SEC. 7. Internal improvement shall be encouraged by the government of this State, and it shall be the duty of the general assembly, as soon as may be, to make provision by law for ascertaining the proper objects of improvement in relation to roads, canals and navigable waters; and it shall also be their duty to provide by law for an equal, systematic and economical application of the funds which may be appropriated to these objects.

SEC. 8. Returns for all elections for officers who are to be commissioned by the governor, and for members of the general assembly, shall be made to the secretary of state, except in the election of eighteen hundred and sixty-four, they may be made as directed in the schedule appended to this constitution.

SEC. 9. Within five years after the adoption of this constitution, the laws, civil and criminal, shall be revised, digested and arranged, and promulgated in such manner as the general assembly may direct, and a like revision, digest and promulgation shall be made within every subsequent period of ten years.

SEC. 10. In the event of the annexation of any territory to this State by a cession from the United States, laws may be passed extending to the inhabitants of such territory all the rights and privileges which may be required by the terms of such cession, anything in this constitution to the contrary notwithstanding.

SEC. 11. Imprisonment for debt shall not be allowed in this State, except when an allegation of fraud on the part of the debtor shall be clearly proved.

SEC. 12. Any person who shall, after the adoption of this constitution, fight a duel, or send or accept a challenge for that purpose, or be aider or abettor in fighting a duel, shall be deprived of the right of suffrage, and of the right of holding any office of honor or profit in this State, and shall be punished otherwise in such manner as is or may be prescribed by law.

ARTICLE IX.

REVENUE.

SECTION 1. All revenue shall be raised by taxation to be fixed by law.

SEC. 2. All property subject to taxation shall be taxed according to its value, that value to be ascertained in such manner as the general assembly shall direct, making the same equal and uniform throughout the State. No one species of property from which a tax may be collected shall be taxed higher than another species of property of equal value: *Provided*, The general assembly shall have the power to tax merchants, hawkers, peddlers and privileges, in such manner as may from time to time be prescribed by law: *And provided further*, That no other or greater amount of revenue shall at any time be levied than required for the necessary expenses of the government, unless by a concurrence of two-thirds of both houses of the general assembly.

SEC. 3. No poll-tax shall be assessed for other than county purposes.

SEC. 4. No other or greater tax shall be levied on the productions or labor of the country than may be required for expenses of inspection.

SCHEDULE.

SECTION 1. In order that civil government may be in full operation and effect, at the earliest day possible, it is further ordained and provided that a general vote on the ratification of the constitution and ordinance of this convention, and a general election shall be taken and held throughout the State, as far as practicable, on the second Monday of March next, as follows, to wit: Any number of persons, being white male citizens of the State, over the age of twenty-one years, at the county seat of any county, or (in case of volunteer soldiers in the Federal Army) at the camp of their respective companies, having first taken the oath prescribed in the President's proclamation of December eight, one thousand eight hundred and sixty-three, before

any justice of the peace, or other person authorized to administer an oath within the county in which they reside, or within which they are encamped, may appoint a commissioner of elections, with power to appoint such election judges as may be necessary, who shall also be an enrolling officer for said county or company, who shall proceed as follows, to wit: Said commissioners shall prepare an enrolling and poll book, to which shall be appended the constitution, ordinances and schedule of this convention; one column shall then be headed with the oath contained in said proclamation of the President; another column headed "Constitution and ordinances ratified;" another column, "Constitution and ordinances rejected;" other columns shall be arranged so that a vote may be taken for all officers to be voted for within the county or company where the election is proposed to be held; said commissioner shall then take the oath aforesaid, before any justice of the peace or other officer authorized to administer oaths, and enroll his own name at the head of the column, under the said oath, written out in full; the said commissioner shall then, on the said second Monday of March next, within usual election hours, proceed to hold an election, as follows: *viva voce; And provided also,* That said commissioner may keep the polls open for three days, to wit: Every white male citizen over the age of twenty-one years, of the county, or (in case of a military company) of the State, presenting himself to vote, and not being included in the exceptions contained in the said proclamation, shall take the oath contained in said proclamation, administered by any justice of the peace, or other officer authorized to administer oaths; and when his name has been thereafter duly enrolled or subscribed in the proper column, the commissioner shall cause his vote to be recorded, first upon the question of the constitution and ordinances, and then in the election of all officers to be voted for.

SEC. 2. That within five days after the holding of said election, said commissioner shall foot up the said vote, and certify the result, over his signature, as commissioner; he shall then make a duplicate of said book, (except that the constitution and ordinances of this convention need not be appended to the copy,) and forward the said copy to Little Rock, addressed to the provisional government; the original book shall be preserved by said commissioner, and deposited by him as soon as the counties are organized, with the clerk of the county wherein the election was held, or (in case of soldiers) in the county wherein the voters reside.

SEC. 3. Within ten days after the receipt of the said enrolling and election return-books by the provisional governor, it shall be his duty, with the assistance of the secretary of state, to examine the same and declare the result by proclamation as follows, to wit:

1st. Whether the constitution and ordinances of this convention have been adopted or rejected within the meaning of the President's proclamation.

2d. He shall announce the whole vote polled for or against said constitution and ordinances.

3d. He shall declare what persons are elected to the various offices throughout the State, except that of governor and lieutenant-governor of state, deciding the result by plurality.

SEC. 4. All persons thus declared to be elected State officers, shall enter upon the discharge of their respective offices as soon thereafter as they take and subscribe an oath before any justice of the peace, or other officer authorized to administer oaths, as follows: That they will faithfully perform the duties of their respective offices; that they will support the constitution and laws of the State and of the United States; and said oath, in case of State officers, shall be filed in the office of the secretary of state; and in case of county officers, they shall enter upon the duties of their respective offices immediately after the election upon filing said oath with the county commissioners.

SEC. 5. At the first session of the legislature, and during the first week of the session, the said provisional governor shall place the said return-books before that body, who shall declare the result as to the election of governor and lieutenant-governor and secretary of state, who, before entering upon the duties of their respective offices, shall take the oath herein prescribed for other officers.

SEC. 6. It is also further ordained and declared, that in counties wherein, for any cause, elections are not held on the said second Monday of March, next, the same may be held for the several local officers provided for in the constitution, ordinances and schedule of this convention, in the same manner as hereinbefore described, at any time thereafter, till the whole State is fully organized and represented.

SEC. 7. The officers to be voted for in this election, are governor, lieutenant-governor, secretary of state, auditor, treasurer, attorney-general, three judges of the supreme court, nine circuit judges and nine district attorneys, (according to act of January fifteenth, one thousand eight hundred and sixty-one,) county judges, clerks, sheriffs, coroners, constables, justices of the peace, and all other officers provided for in the constitution and ordinances of this convention, or which may exist by law, and members of the legislature, according to the ratio or apportionment of senatorial districts in force in the year one thousand eight hundred and sixty, and members to Congress in districts Nos. 1 and 2, according to the act approved January nineteenth, one thousand eight hundred and sixty-one, (no election being ordered in district No. 3, this convention recognizing the election of Colonel James M. Johnson as the representative from that district.) And it is further hereby declared that all laws in force in this State on the fourth day of March, one thousand eight hundred and sixty-one, are still in force, not inconsistent with the provisions of this constitution, and which have not expired by limitation therein contained.

JOHN McCOY,
President.

Attest:
ROBERT J. T. WHITE, *Secretary.*
JAMES R. BERRY, *Ass't Secretary.*

CONSTITUTION OF ARKANSAS—1868.*

PREAMBLE.

We, the people of Arkansas, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings and secure the same to ourselves and our posterity, do ordain and establish this constitution:

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it. But the paramount allegiance of every citizen is due to the Federal Government in the exercise of all its constitutional powers as the same may have been or may be defined by the Supreme Court of the United States; and no power exists in the people of this or any other State of the Federal Union to dissolve their connection therewith, or perform any act tending to impair, subvert or resist the supreme authority of the United States. The Constitution of the United States confers full powers on the Federal Government to maintain and perpetuate its existence, and whensoever any portion of the States, or the people thereof, attempt to secede from the Federal Union, or forcibly resist the execution of its laws, the Federal Government may, by warrant of the Constitution, employ armed force in compelling obedience to its authority.

SEC. 2. The liberty of the press shall forever remain inviolate. The free communi-

* A constitutional convention, called under the reconstruction acts of Congress, met at Little Rock, January 7, 1868, and adopted this constitution on the 11th of February following. It was submitted to the people, and ratified by 27,913 votes against 26,597 votes.

cation of thoughts and opinions is one of the invaluable rights of man, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury, that the matter charged as libellous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted.

SEC. 3. The equality of all persons before the law is recognized and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege, or immunity, nor exempted from any burden or duty, on account of race, color, or previous condition.

SEC. 4. The citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives and to petition for the redress of grievances, and other proper purposes.

SEC. 5. The citizens of this State shall have the right to keep and bear arms for their common defence.

SEC. 6. The right of trial by jury shall remain inviolate and shall extend to all cases at law without regard to the amount in controversy; but a jury trial may be waived by the parties in all cases, in the manner prescribed by law.

SEC. 7. Excessive bail shall not be required, nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted; nor witnesses be unreasonably detained.

SEC. 8. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county or judicial district wherein the crime shall have been committed—which county or district shall have been previously ascertained by law—and to be informed of the nature and cause of the accusation against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel in his defence.

SEC. 9. No person shall be held to answer a criminal offence unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases of petit larceny, assault, assault and battery, affray, vagrancy and such other minor cases as the general assembly shall make cognizable by justices of the peace; or arising in the Army and Navy of the United States, or in the militia when in actual service in time of war or public danger; and no person after having once been acquitted by a jury, for the same offence, shall be again put in jeopardy of life or liberty; but if, in any criminal prosecution, the jury be divided in opinion, the court before which the trial shall be had may in its discretion discharge the jury and commit or bail the accused for trial at the same or the next term of said court; nor shall any person be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property, without due process of law. All persons shall, before conviction, be bail able by sufficient sureties, except for capital offences—murder and treason—when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require.

SEC. 10. Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character; he ought to obtain justice freely and without purchase; completely and without denial; promptly and without delay; conformably to the laws.

SEC. 11. Treason against the State shall only consist in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 12. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

SEC. 13. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be passed; and no conviction shall work corruption of blood or forfeiture of estate.



SEC. 14. No person shall be imprisoned for debt in this State; but this shall not prevent the general assembly from providing for imprisonment or holding to bail persons charged with fraud in contracting said debt. A reasonable amount of property shall be exempt from seizure or sale for the payment of debts or liabilities.

SEC. 15. Private property shall not be taken for public use without just compensation therefor.

SEC. 16. The military shall be subordinate to the civil power. No standing army shall be kept up in this State in time of peace, and no soldier shall in time of peace be quartered in any house, without the consent of the owner, nor in time of war but in a manner prescribed by law.

SEC. 17. Suits may be brought by or against the State in such manner and in such courts as may be by law provided.

SEC. 18. The general assembly shall not grant to any citizen or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens.

SEC. 19. The right of suffrage shall be protected by laws regulating elections, and prohibiting under adequate penalties all undue influence from bribery, tumult, or other improper conduct.

SEC. 20. Foreigners who are, or may become, *bona-fide* residents of this State, shall be secured the same rights in respect to the acquisition, possession, enjoyment and descent of property as are secured to native-born citizens.

SEC. 21. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the State. No religious test or amount of property shall ever be required as a qualification of any voter at any election in this State; nor shall any person be rendered incompetent to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion; and the mode of administering an oath or affirmation shall be such as shall be most consistent with, and binding upon the conscience of the person to whom such oath or affirmation may be administered.

SEC. 22. Any person who shall, after the adoption of this constitution, fight a duel or send or accept a challenge for that purpose, or be aider or abettor in fighting a duel, either within this State or elsewhere, shall thereby be deprived of the right of holding any office of honor or profit in this State, and shall be forever disqualified from voting at any election, and shall be punished otherwise in such manner as may be prescribed by law.

SEC. 23. Religion, morality and knowledge being essential to good government, the general assembly shall pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship; and to encourage schools and the means of instruction.

SEC. 24. All lands in this State are declared to be allodial, and feudal tenures of every description, with all their incidents, are prohibited. Leases and grants of land for a longer period than twenty-one years, hereafter made, in which shall be reserved any rent or service of any kind, shall be held a conveyance in fee to the lessee.

SEC. 25. The action of the convention of the State of Arkansas, which assembled in the city of Little Rock on the fourth day of March, A. D. 1861, was, and is null and void. All the action of the State of Arkansas under the authority of said convention, of its ordinances or its constitution, whether legislative, executive, judicial or military, was, and is hereby declared null and void; and no debt or liability of the State of Arkansas incurred by the action of said convention, or of the general assembly, or any department of the government under the authority of either, shall ever be recognized as obligatory: *Provided*, That this ordinance shall not be so construed as to affect the rights of private individuals arising under contracts between the parties, or to change county boundaries or county seats, or to make invalid the acts of justices of the peace, or other officers in their authority to administer oaths or take and certify the acknowledgment of deeds of conveyance, or other instruments of writing, or in the solemnization of marriage.

ARTICLE II.

BOUNDARIES.

We do declare and establish, ratify and confirm, the following as the permanent boundaries of said State of Arkansas, that is to say: Beginning at the middle of the main channel of the Mississippi River, on the parallel of 36° north latitude; running from thence west, with the said parallel of latitude, to the Saint Francis River; thence up the middle of the main channel of said river to the parallel of 36° 30′ north; from thence west with the boundary-line of the State of Missouri to the southwest corner of that State; and thence to be bounded on the west to the north bank of Red River as by acts of Congress and treaties heretofore defining the western limits of the Territory of Arkansas; and to be bounded on the south side of Red River by the boundary-line of the State of Texas, to the northwest corner of the State of Louisiana; thence east with the Louisiana State line to the middle of the main channel of the Mississippi River; thence up the middle of the main channel of said river, including an island in said river known as "Belle Point Island" to the 36° of north latitude—the place of beginning.

ARTICLE III.

The seat of government shall be at Little Rock, where it is now established.

ARTICLE IV.

SECTION 1. The powers of government are divided into three departments—the legislative, the executive, and the judicial.

SEC. 2. No person belonging to one department shall exercise the powers properly belonging to another, excepting in the cases expressly provided in this constitution.

ARTICLE V.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power in this State shall be vested in a general assembly, which shall consist of a senate and a house of representatives.

SEC. 2. The general assembly shall meet every two years, on the first Monday of January, at the seat of government, until altered by law; but the first general assembly elected after the adoption of this constitution shall meet on the second (2d) day of April, A. D. one thousand eight hundred and sixty-eight, (1868.)

SEC. 3. The house of representatives shall consist of members chosen every second year by the qualified electors of the several districts.

SEC. 4. No person shall be a member of the house of representatives who shall not have attained the age of twenty-one years, and have been one year a resident of this State, who shall not be a male citizen of the United States, who shall not, at the time of his election, have an actual residence in the district he may be chosen to represent, and who shall not be a qualified elector as provided in this constitution.

SEC. 5. The senate shall consist of members chosen every fourth year by the qualified electors of the several districts.

SEC. 6. No person shall be a member of the senate who shall not have attained the age of twenty-five years, and have been one year a resident of this State, who shall not be a male citizen of the United States, who shall not, at the time of his election, have an actual residence in the district he may be chosen to represent, and who shall not be a qualified elector as provided in this constitution.

SEC. 7. The number of members composing the senate shall be twenty-six, (26,) and of the house of representatives eighty-two, (82.)

SEC. 8. The general assembly shall provide by law for an enumeration of the inhabitants of this State in the year one thousand eight hundred and seventy-five, (1875,) and every tenth year thereafter; and the first general assembly elected after each enumeration so made, and also after each enumeration made by the

authority of the United States, may re-arrange the senatorial and representative districts according to the number of inhabitants as ascertained by such enumeration: *Provided*, That there shall be no apportionment other than that made in this constitution, until after the enumeration to be made in the year one thousand eight hundred and seventy-five, (1875.)

SEC. 9. Senators shall be chosen at the same time and in the same manner that members of the house of representatives are required to be. Senatorial districts shall be composed of convenient contiguous territory, and no representative district shall be divided in the formation of a senatorial one. The senatorial district shall be numbered in regular series, and the term of senators chosen for the districts designated by odd numbers shall expire in two (2) years, and the term of senators chosen for the districts designated by even numbers shall expire in four (4) years; but thereafter senators shall be chosen for the term of four years, excepting when an enumeration of the inhabitants of the State is made, in which case, if a re-arrangement of the senatorial districts is made, then the regulation above stated shall govern the term of office.

SEC. 10. Removals of senators and representatives from their respective districts shall be deemed a vacation of their office.

SEC. 11. No person holding any office under the United States, or this State, or any county office, excepting postmasters, notaries public, officers of the militia, and township officers, shall be eligible to, or have a seat in either branch of the general assembly, and all votes given for any such person shall be void.

SEC. 12. Senators and representatives shall, in all cases, (treason, felony, or breach of the peace excepted,) be privileged from arrest during the session of the general assembly; they shall not be subjected to any civil process during the session of the general assembly, or for fifteen days next before the commencement, and next after the termination of each session; and they shall not be questioned in any other place for remarks made in either house.

SEC. 13. A majority of the members of each house shall constitute a quorum to transact business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each house may prescribe.

SEC. 14. Each house shall choose its own officers, determine the rules of its proceedings, judge of the qualifications, election and return of its members; and may, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause, nor for any cause known to his constituents at the time of his election. The reasons for any such expulsion shall be entered upon the journal, with the names of the members voting thereon.

SEC. 15. The general assembly shall prescribe by law the manner in which the State printing shall be executed, and the accounts rendered therefor, and shall prohibit all charges for constructive labor. They shall not rescind or alter any contract for such printing, or release the person or persons taking the same, or his or their securities, from the performance of any of the provisions of said contract.

SEC. 16. Each house shall keep a journal of its proceedings, and publish the same, excepting such parts as may require secrecy. The yeas and nays of the members of either house, upon any question, shall be entered on the journal at the request of five members. Any member of either house may dissent, and protest against any act, proceeding or resolution which he may deem injurious to any person or the public, and have the reason of his dissent entered on the journal.

SEC. 17. In all elections by either house, or in joint convention, the votes shall be given *viva voce*. All votes on nominations to the senate shall be taken by yeas and nays, and published with the journal of its proceedings.

SEC. 18. The doors of each house shall be open, unless the public welfare requires secrecy. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than where the general assembly may then be in session.

SEC. 19. Bills may originate in either house of the general assembly, but all bills for raising revenue shall originate in the house of representatives, though the senate may propose amendments, as on other bills.

SEC. 20. No portion of the public funds or property shall ever be appropriated by virtue of any resolution. No appropriation shall be made except by a bill duly passed for that purpose.

SEC. 21. Every bill and joint resolution shall be read three times, on different days, in each house, before the final passage thereof, unless two-thirds of the house where the same is pending shall dispense with the rules. No bill or joint resolution shall become a law without the concurrence of a majority of all the members voting. On the final passage of all bills the vote shall be taken by yeas and nays, and entered on the journal.

SEC. 22. No act shall embrace more than one subject, which shall be embraced in its title. No public act shall take effect or be in force until ninety days from the expiration of the session at which the same is passed, unless it is otherwise provided in the act.

SEC. 23. No law shall be revised, altered or amended, by reference to its title only, but the act revised, and the section or sections of the act as altered or amended shall be enacted and published at length.

SEC. 24. No new bill shall be introduced into either house during the last three days of the session without the unanimous consent of the house in which it originated.

SEC. 25. The general assembly, at its first session, shall provide suitable laws for the registration of qualified electors, and for the prevention of frauds in elections.

SEC. 26. The general assembly shall provide for the speedy publication of all statute laws of a public nature, and of such judicial decisions as it may deem expedient. All laws and judicial decisions shall be free for publication by any person.

SEC. 27. The style of the laws of the State shall be, "*Be it enacted by the general assembly of the State of Arkansas.*"

SEC. 28. The general assembly may enact laws providing for county, township or precinct governments.

SEC. 29. It shall be the duty of the general assembly, from time to time. as circumstances may require, to frame and adopt a penal code, founded on principles of reformation.

SEC. 30. The general assembly shall not change the venue in any criminal or penal prosecution, but shall provide for the same by general laws.

SEC. 31. The general assembly may pass laws authorizing appeals in criminal or penal cases, and regulating the right of challenge of jurors therein.

SEC. 32. The general assembly shall direct by law when and how juries shall be selected from judicial districts in criminal and civil cases.

SEC. 33. The general assembly shall regulate by law by whom and in what manner, writs of election shall be issued to fill the vacancies which may happen in either branch thereof.

SEC. 34. The general assembly may declare the cases in which any office shall be deemed vacant, and also for the manner of filling the vacancy, where no provision is made for that purpose in this constitution.

SEC. 35. Every bill and concurrent resolution, except of adjournment, passed by the general assembly, shall be presented to the governor for approval before it becomes a law. If he approve, he shall sign it; if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon its journal, and reconsider it. On such reconsideration, if a majority of the members elected agree to pass the bill, it shall be sent with the objections to the other house, by which it shall be reconsidered. If approved by a majority of the members elected to that house, it shall become a law. In such cases the vote of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house respectively. If any bill be not returned by the governor within three (3) days (Sunday excepted) after it has been presented to him, the same shall become a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which case it shall not become a law. The governor may approve, sign and file in the office of the secretary of state, within three days after

the adjournment of the general assembly, any act passed during the last three (3) days of the session, and the same shall become a law.

SEC. 36. Each house may punish by imprisonment, during its session, any person not a member, who shall be guilty of any disorderly or contemptuous behavior in their presence; but no such imprisonment shall at any time exceed twenty-four (24) hours.

SEC. 37. No citizen of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless the same is done by the law of the land, or the judgment of his peers, except as hereinafter provided. There shall be neither slavery nor involuntary servitude, either by indentures, appenticeships, or otherwise, in the State, except for the punishment of crime, whereof the party shall have been duly convicted.

SEC. 38. The general assembly shall have no power to make compensation for emancipated slaves.

SEC. 39. The general assembly shall have no power to grant divorces, to change the names of individuals, or to direct the sale of estates belonging to infants or other persons laboring under legal disabilities, by special legislation; but, by general laws, shall confer such powers on the courts of justice.

SEC. 40. The general assembly shall not authorize, by private or special law, the sale or conveyance of any real estate belonging to any person, or vacate or alter any road laid out by legal authority, or any street in any city or village, or in any recorded town-plat; but shall provide for the same by general laws.

SEC. 41. The general assembly shall not authorize any lottery, and shall prohibit the sale of lottery tickets.

SEC. 42. In case of a contested election, only the claimant decided entitled to the seat, in either house in which the contest may take place, shall receive from the State per diem compensation and mileage.

SEC. 43. No collector, holder, or disburser of public moneys shall have a seat in the general assembly, or be eligible to any office of trust or profit under this State, until he shall have accounted for, and paid over, as provided by law, all sums for which he is liable.

SEC. 44. The general assembly shall have power to alter and regulate the jurisdiction and proceedings in law and equity, subject to the provisions of this constitution.

SEC. 45. The general assembly shall direct by law in what manner and in what courts suits may be brought by and against the State.

SEC. 46. It shall be the duty of the general assembly to make adequate provision for the maintenance of paupers throughout the State.

SEC. 47. The general assembly shall not have power to authorize any municipal corporation to pass any laws contrary to the general laws of the State, or to levy any tax on real or personal property to a greater extent than two (2) per centum of the assessed value of the same.

SEC. 48. The general assembly shall pass no special act conferring corporate powers. Corporations may be formed under general laws; but all such laws may, from time to time, be altered or repealed. Dues from corporations shall be secured by such individual liability of the stockholders, and other means, as may be prescribed by law; but, in all cases each stockholder shall be liable over and above the stock by him or her owned, and any amount unpaid thereon, to a further sum, at least equal in amount to such stock. The property of corporations, now existing or hereafter created, shall forever be subject to taxation, the same as the property of individuals. No right of way shall be appropriated to the use of any corporation until full compensation therefor shall be first made in money, or first secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation; which compensation shall be ascertained by a jury of twelve men in a court of record, as shall be prescribed by law.

SEC. 49. The general assembly shall provide for the organization of cities and incorporated villages by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent the abuse of such power.



SEC. 50. All corporations with banking and discounting privileges, shall, preparatory to issuing bills as currency, deposit the bonds of this State, equal in amount to the capital stock of such corporation, with the auditor of the State, who shall not permit an issue of circulation exceeding eighty per centum of the amount of bonds so deposited, such circulation being receivable for all taxes and dues to the State, and the individual liability of stockholders shall be as hereinbefore directed: *Provided*, That corporations chartered or existing under any act of the Congress of the United States shall be exempted from these provisions.

SEC. 51. The general assembly, on the day of final adjournment, shall adjourn at twelve o'clock at noon.

ARTICLE VI.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department of this State shall consist of a governor, lieutenant-governor, secretary of state, auditor, treasurer, attorney-general and superintendent of public instruction—all of whom shall hold their several offices for the term of four years and until their successors are elected and qualified. They shall be chosen by the qualified electors of this State at the time and places of choosing the members of the general assembly.

SEC. 2. The supreme executive power of this State shall be vested in the governor.

SEC. 3. No person shall be eligible to the office of governor or lieutenant-governor who shall not have attained the age of twenty-five years, who shall not have been five years a citizen of the United States, who shall not, at the time of his election, have had an actual residence in this State for one year next preceding his election, and who shall not be a qualified elector as prescribed in this constitution.

SEC. 4. In elections for governor and lieutenant-governor, the person having the highest number of votes shall be declared elected. But in case that two or more persons shall have an equal, and the highest number of votes for governor or lieutenant-governor, the general assembly shall, by joint vote, choose one of such persons. The governor shall be commander-in-chief of the military and naval forces of the State, and may call out such forces to execute the laws, suppress insurrections, repel invasions, or preserve the public peace. He shall transact all necessary business with other officers of the State government, and may require information in writing of the officers of the executive department upon anysubject pertaining to the duties of their respective offices.

SEC. 5. It shall be the duty of the governor to see that the laws are faithfully executed.

SEC. 6. He may convene the legislature on extraordinary occasions.

SEC. 7. He shall give to the general assembly, and at the close of his official term, to the next general assembly information by message, concerning the condition of the State, and recommend such means to their consideration as he may deem expedient.

SEC. 8. He may convene the general assembly at some other place when the seat of government becomes dangerous from the prevalence of disease, or the presence of a common enemy.

SEC. 9. He may grant reprieves, pardons and commutations after conviction for all offences, except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper; subject, however, to such regulations as may be prescribed by law relative to the manner of applying for pardons. Upon conviction for treason he may suspend execution of the sentence until the matter shall be reported to the general assembly at its next session, when the general assembly shall either pardon, commute the sentence, direct the execution of the same or grant a further reprieve. The governor shall communicate to the general assembly at each session, information concerning each case of pardon, reprieve or commutation granted, and the reasons therefor.

SEC 10. In case of the impeachment of the governor, his removal from office, death, resignation, inability or removal from the State, the powers and duties of the

governor shall devolve upon the lieutenant-governor during the residue of the term or until the disabilities of the governor are removed.

SEC. 11. During a vacancy in the office of governor, if the lieutenant-governor resign, be impeached, displaced, absent from the State or incapable of acting, the president *pro tempore* of the senate, shall act as governor until the vacancy be filled, or the disability cease.

SEC. 12. The lieutenant-governor shall, by virtue of his office, be president of the senate, and when there is an equal division he shall give the casting vote.

SEC. 13. No member of Congress or any person holding any office under the United States or this State shall execute the office of governor.

SEC. 14. The lieutenant-governor, and the president of the Senate *pro tempore* while performing the office of governor, shall receive the same compensation as the governor.

SEC. 15. All official acts of the governor—his approval of the laws excepted—shall be authenticated by the great seal of the State, which seal shall be kept by the secretary of state.

SEC. 16. The governor shall, by and with the advice and consent of the senate, appoint a convenient number of notaries public, not to exceed six for each county, who shall discharge such duties as are now, or as may hereafter be prescribed by law.

SEC. 17. All commissions issued to persons holding office under the provisions of this constitution shall be in the name, and by the authority of the people of the State of Arkansas, sealed with the great seal of the State, signed by the governor, and countersigned by the secretary of state.

SEC. 18. The governor, chief justice, secretary of state, treasurer, auditor, attorney-general and superintendent of public instruction, shall severally reside, and keep all public records, books, papers and documents which may pertain to their respective offices, at the seat of government.

SEC. 19. The returns of every election for governor, lieutenant-governor, secretary of State, treasurer, auditor, attorney-general and superintendent of public instruction, shall be sealed up and transmitted to the seat of government by the returning officers and directed to the presiding officer of the senate, who, during the first week of the session shall open and publish the same in presence of the members then assembled. The person having the highest number of votes shall be declared elected, but if two or more shall have the highest and equal number of votes for the same office, one of them shall be chosen by a joint vote of both houses. Contested elections shall likewise be determined by both houses of the general assembly in such manner as is or may hereafter be prescribed by law.

SEC. 20. The secretary of state shall keep a fair record of all official acts and proceedings of the governor, and shall when required lay the same and all papers, minutes and vouchers relative thereto, before the general assembly, and shall perform such other duties as are now, or may hereafter be prescribed by law.

SEC. 21. The auditor, treasurer, attorney-general, and superintendent of public instruction, shall perform such duties as are now, or may hereafter be prescribed by law.

SEC. 22. In case of the death, impeachment, removal from the State or other disability of the secretary of state, treasurer, auditor, attorney-general, and superintendent of public instruction, the vacancies in their several offices thus occasioned shall be filled by appointment of the governor, which appointment shall be made for the unexpired terms of said officers, or until said disabilities are removed, or until elections are held to fill said vacancies.

SEC. 23. Until the general assembly shall otherwise provide, the governor shall appoint a suitable person, who shall be styled commissioner of public works and internal improvements, who shall hold his office for the term of four years, and until his successor is duly commissioned and qualified. It shall be the duty of the commissioner of public works and internal improvements to superintend all public works which may be carried on by the State, and have a supervising control over all internal improvements in which the State is interested, and, until otherwise provided

by the general assembly he shall be *ex officio* commissioner of immigration and of State lands, and shall perform such other duties as may be prescribed by law. He shall receive for his services the same salary as provided by law for the auditor of the State.

SEC. 24. The officers of the executive department, mentioned in this article, shall, at stated times, receive for their services a compensation to be established by law, which shall not be diminished during the period for which they shall have been elected or appointed.

SEC. 25. The officers of the executive department and judges of the supreme court shall not be eligible, during the period for which they may be elected or appointed to their respective offices, to any position in the gift of the qualified electors, or of the general assembly of this State.

SEC. 26. The returns of every election for State, county and judicial officers, not herein provided for shall be sealed up and transmitted to the seat of government by the returning officers, and directed to the secretary of state who shall open and publish the same, and the persons so elected shall be duly commissioned by the governor.

ARTICLE VII.

JUDICIARY.

SECTION 1. The judicial power of the State shall be vested in the senate sitting as a court of impeachment, a supreme court, circuit courts, and such other courts inferior to the supreme court as the general assembly may from time to time establish.

SEC. 2. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members thereof. The chief justice shall preside, and the secretary of state shall act as clerk of this court: *Provided*, That in case of the trial of either of them the person appointed temporarily to perform the duties of the office shall act. The governor, and all other civil officers under this State, shall be liable to impeachment for any misconduct or maladministration of their respective offices; but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit, under this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial and judgment according to law.

SEC. 3. Two terms of the supreme court shall be held at the seat of government annually: *Provided*, That the general assembly may provide by law for holding said court at three other places. The supreme court shall consist of one chief justice, who shall be appointed by the governor, by and with the advice and consent of the senate, for the term of eight years, and four associate justices, who shall be chosen by the qualified electors of the State at large for the term of eight years: *Provided*, That two of the associate justices first chosen under this constitution shall serve for four years after the next general election, and two of them for eight years after said election, said times to be determined by lot; but thereafter the associate justices shall be chosen for the full term.

SEC. 4. The supreme court shall have general supervision and control over all inferior courts of law and equity. It shall have power to issue writs of error, *supersedeas*, *certiorari*, *habeas corpus*, *mandamus*, *quo warranto*, and other remedial writs, and to hear and determine the same. Final judgments in the inferior courts may be brought by writ of error, or by appeal, into the supreme court in such manner as may be prescribed by law.

SEC. 5. The inferior courts of the State as now constituted by law, except as hereinafter provided, shall remain with the same jurisdiction as they now possess: *Provided*, That the general assembly may provide for the establishment of such inferior courts, changes of jurisdiction, or abolition of existing inferior courts, as may be deemed requisite. The judges of the inferior courts herein provided for, or of such as may hereafter be established by law, shall be appointed by the governor, by and with the advice and consent of the senate, for the term of six years, and until such



time as the general assembly may otherwise direct: *Provided*, That the general assembly shall not interfere with the term of office of any judge.

SEC. 6. All writs and other processes shall run in the name of the State of Arkansas, and bear teste and be signed by the clerks of the respective courts from which they issue. Indictments shall conclude "against the peace and dignity of the State of Arkansas."

SEC. 7. No judge shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by affinity or consanguinity within such degrees as may be prescribed by law, or in which he may have been counsel, or have presided in any inferior court.

SEC. 8. In case all or any of the judges of the supreme court shall be disqualified from presiding, on any cause or causes, the court or judges thereof shall certify the same to the governor of the State, and he shall immediately commission, specially, the required number of men learned in the law for the trial and determination thereof.

SEC. 9. Whenever, at ten o'clock, a. m., of the second day of any term of the inferior courts of this State, the judge thereof is not present, or if present and he cannot for any cause properly preside at the trial of any case then pending therein, the attorneys of said court then present may elect a special judge, who shall preside during the trial of such case or cases, or shall hold said court until the appearance of the regular judge thereof. The proceedings in such cases shall be entered at large upon the record.

SEC. 10. The judges of the inferior courts may temporarily exchange circuits, or hold courts for each other under such regulations as may be prescribed by law.

SEC. 11. Judges shall not charge juries with regard to matters of fact, but shall declare the law. In all trials by jury the judges shall give their instructions and charges in writing; and if the trial is by the court he shall reduce to writing his findings upon the facts in the case, and shall declare the law in the same manner he is required to do when instructing juries.

SEC. 12. Any judge whose appointment or election is herein provided for, shall be at least twenty-five years of age, a qualified elector of this State, and shall have been for one year an actual resident of the State, and shall reside in the circuit or district to which he may be appointed or elected.

SEC. 13. The judges of the supreme and inferior courts shall, at stated times, receive a compensation for their services as is now or may hereafter be provided by law, and which shall not be diminished during the respective terms for which they may be elected or appointed.

SEC. 14. The inferior courts shall hold annually such terms as the general assembly may direct.

SEC. 15. All appeals from inferior courts shall be taken in such manner and to such courts as may be provided by law. Appeals may be taken from courts of justices of the peace to such courts and in such manner as may be prescribed by law.

SEC. 16. When a vacancy occurs in the office of judge of the supreme, or any of the inferior courts, it shall be filled by appointment of the governor; which appointee shall hold his office the residue of the unexpired term, and until his successor is elected and qualified.

SEC. 17. The supreme court and such other courts as may be established by law shall be courts of record, and shall each have a common seal.

SEC. 18. The supreme court shall appoint a clerk of such court, and also a reporter of its decisions. The decisions of the supreme court shall be in writing and signed by the judges concurring therein. Any judge dissenting therefrom shall give the reasons of such dissent in writing, over his signature; all such decisions shall be filed in the office of the clerk of the supreme court, and be published in such manner as the general assembly may direct. The clerk and reporter shall hold their respective offices for the term of six years, subject to removal by the court for cause.

SEC. 19. A county clerk shall be elected by the qualified electors in each organized county in this State, for the term of four years, and shall perform such duties, and receive such fees as are now or may hereafter be prescribed by law.



SEC. 20. In each township in this State there shall be elected by the qualified electors thereof two justices of the peace, who shall hold their offices for the term of four years: *Provided*, That in such townships as may contain more than two hundred qualified electors, an additional justice of the peace may be chosen. Justices of the peace shall have exclusive original jurisdiction in all actions of contract and replevin where the amount in controversy does not exceed two hundred dollars, and concurrent jurisdiction with the circuit court where the amount in controversy does not exceed five hundred dollars. In criminal causes the jurisdiction of justices of the peace shall extend to all matters less than felony for final determination and judgment.

SEC. 21. Any suitor in any court in this State shall have the right to prosecute or defend his suit either in his own proper person or by attorney.

SEC. 22. In the courts of this State there shall be no exclusion of any witness in civil actions because he is a party to, or is interested in the issue to be tried, and no person convicted of infamous crime shall be a competent witness in any cause, without the consent of both parties to the controversy: *Provided*, That in actions by or against executors, administrators or guardians in which judgment may be rendered for or against them, neither party shall be allowed to testify against the other as to any transactions with or statements to the testator, intestate or ward, unless called to testify thereto by the opposite party, or required to testify thereto by the court. The judges of the supreme and all inferior courts shall be conservators of the peace throughout their respective jurisdictions.

ARTICLE VIII.

FRANCHISE.

SECTION 1. In all elections by the people the electors shall vote by ballot.

SEC. 2. Every male person born in the United States, and every male person who has been naturalized, or has legally declared his intention to become a citizen of the United States, who is twenty-one years old or upward, and who shall have resided in the State six months next preceding the election, and who at the time is an actual resident of the county in which he offers to vote, except as hereinafter provided, shall be deemed an elector: *Provided*, No soldier, or sailor, or marine, in the military or naval service of the United States shall acquire a residence by reason of being stationed on duty in this State.

SEC. 3. The following classes shall not be permitted to register, or vote, or hold office, viz:

1st. Those who during rebellion took the oath of allegiance, or gave bonds for loyalty and good behavior to the United States Government, and afterward gave aid, comfort or countenance to those engaged in armed hostility to the Government of the United States, either by becoming a soldier in the rebel army or by entering the lines of said army, or adhering in any way to the cause of rebellion, or by accompanying any armed force belonging to the rebel army, or by furnishing supplies of any kind to the same.

2d. Those who are disqualified as electors, or from holding office in the State or States from which they came.

3d. Those persons who during the late rebellion violated the rules of civilized warfare.

4th. Those who may be disqualified by the proposed amendment to the Constitution of the United States, known as Article XIV, and those who have been disqualified from registering to vote for delegates to the convention to frame a constitution for the State of Arkansas, under the act of Congress entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto.

5th. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crimes punishable by law with imprisonment in the penitentiary, or bribery.

6th. Those who are idiots or insane: *Provided*, That all persons included in the 1st, 2d, 3d and 4th, subdivisions of this section, who have openly advocated or who have voted for the reconstruction proposed by Congress and accept the equality of all men before the law, shall be deemed qualified electors under this constitution.

SEC. 4. The general assembly shall have the power by a two-thirds vote of each house, approved by the governor to remove the disabilities included in the 1st, 2d, 3d and 4th subdivisions of section three, of this article, when it appears that such person applying for relief from such disabilities, has in good faith returned to his allegiance to the Government of the United States: *Provided*, The general assembly shall have no power to remove the disabilities of any person embraced in the aforesaid subdivisions who, after the adoption of this constitution by this convention, persists in opposing the acts of Congress and reconstruction thereunder.

SEC. 5. All persons, before registering or voting must take and subscribe the following oath: "I, ——— ———, do solemnly swear, (or affirm,) that I will support and maintain the Constitution and laws of the United States, and the constitution and laws of the State of Arkansas; that I am not excluded from registering or voting by any of the clauses in the 1st, 2d, 3d, or 4th subdivisions of article VIII of the constitution of the State of Arkansas; that I will never countenance or aid in the secession of this State from the United States; that I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color or previous condition, of any political or civil right, privilege or immunity enjoyed by any other class of men; and, furthermore, that I will not in any way injure, or countenance in others any attempt to injure person or persons, on account of past or present support of the Government of the United States, the laws of the United States or the principle of the political and civil equality of all men, or for affiliation with any political party:" *Provided*, That if any person shall knowingly and falsely take any oath in this constitution prescribed, such person so offending, and being thereof duly convicted, shall be subject to the pains, penalties and disabilities, which, by law are provided for the punishment of the crime of wilful and corrupt perjury.

SEC. 6. Electors shall in all cases except treason, felony, or breach of the peace, be privileged from arrest and civil process during their attendance at elections, and in going to and returning from the same.

SEC. 7. It shall be the duty of the general assembly to enact adequate laws giving protection against the evils arising from the use of intoxicating liquors at elections.

ARTICLE IX.

EDUCATION.

SECTION 1. A general diffusion of knowledge and intelligence among all classes, being essential to the preservation of the rights and liberties of the people; the general assembly shall establish and maintain a system of free schools, for the gratuitous instruction of all persons in this State, between the ages of five and twenty-one years, and the funds appropriated for the support of common schools shall be distributed to the several counties, in proportion to the number of children and youths therein between the ages of five and twenty-one years, in such manner as shall be prescribed by law, but no religious or other sect or sects shall ever have any exclusive right to, or control of any part of the school-funds of this State.

SEC. 2. The supervision of public schools shall be vested in a superintendent of public instruction, and such other officers as the general assembly shall provide. The superintendent of public instruction shall receive such salary and perform such duties as shall be prescribed by law.

SEC. 3. The general assembly shall establish and maintain a State university, with departments for instruction in teaching, in agriculture, and the natural sciences as soon as the public school fund will permit.

SEC. 4. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by the United States or this State; also, all mines, [moneys?] stocks, bonds, lands and other property, now belonging to any fund for purposes of education, also the net proceeds of all sales of lands

and other property and effects that may accrue to this State by escheat, or from sales of estrays or from unclaimed dividends or distributive shares of the estates of deceased persons, or from fines, penalties or forfeitures, also, any proceeds of the sales of public lands which may have been or may be hereafter paid over to this State (Congress consenting,) also the grants, gifts or devices that have been or hereafter may be made to this State and not otherwise appropriated by the terms of the grant, gift or devise, shall be securely invested and sacredly preserved as a public school fund, which shall be the common property of the State; the annual income of which fund, together with one dollar *per capita* to be annually assessed on every male inhabitant of this State over the age of twenty-one years, and so much of the ordinary annual revenue of the State as may be necessary, shall be faithfully appropriated for establishing and maintaining the free schools and the university, in this article provided for, and for no other uses or purposes whatever.

SEC. 5. No part of the public school fund shall be invested in the stocks, or bonds or other obligations of any State, or any county, city, town or corporation. The stocks belonging to any school fund or university fund, shall be sold in such manner, and at such times as the general assembly shall prescribe, and the proceeds thereof, and the proceeds of the sales of any lands or other property which now belongs or may hereafter belong to said school fund, may be invested in the bonds of the United States.

SEC. 6. No township or school district shall receive any portion of the public school fund, unless a free school shall have been kept therein for not less than three months during the year, for which distribution thereof is made. The general assembly shall require by law, that every child of sufficient mental and physical ability, shall attend the public schools during the period between the ages of five and eighteen years, for a term equivalent to three years unless educated by other means.

SEC. 7. In case the public school fund shall be insufficient to sustain a free school at least three months in every year in each school district in this State, the general assembly shall provide by law, for raising such deficiency by levying such tax upon all taxable property in each county, township or school district as may be deemed proper.

SEC. 8. The general assembly shall as far as it can be done without infringing upon vested rights, reduce all lands, moneys, or other property used or held for school purposes in the various counties of this State, into the public school fund herein provided for.

SEC. 9. Provision shall also be made, by general laws, for raising such sum or sums of money by taxation, or otherwise in each school district as may be necessary for the building and furnishing of a sufficient number of suitable school-houses for the accommodation of all the pupils within the limits of the several school districts.

ARTICLE X.

FINANCES, TAXATION, PUBLIC DEBT AND EXPENDITURES.

SECTION 1. The levying of taxes by the poll is grievous and oppressive; therefore the general assembly shall never levy a poll-tax excepting for school purposes.

SEC. 2. Laws shall be passed taxing by a uniform rule all money credit, investments in bonds, joint-stock companies, or otherwise; and also all real and personal property according to its true value in money; but burying-grounds, public school-houses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose, shall never be taxed. Real estate shall be appraised at least once every five years by an appraiser to be provided for by law, at its true value in money. Personal property shall be appraised in such manner as may be provided by law at its true value in money, but the general assembly may exempt from taxation personal property to the value of five hundred dollars to each tax-payer.

SEC. 3. The general assembly shall provide by law, for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects or dues of every description, without deduction, of all banks now existing, or hereafter created, and of all bankers, so that all property employed in banking, shall always bear a burden of taxation equal to that imposed on other property of individuals.

SEC. 4. The general assembly shall provide for raising revenue sufficient to defray the expenses of the State, for each year; and also a sufficient sum to pay the interest on the State debt.

SEC. 5. No tax shall be levied except in pursuance of law; and every law imposing a tax, shall state distinctly the object of the same.

SEC. 6. The credit of the State or counties, shall never be loaned for any purpose without the consent of the people thereof, expressed through the ballot-box.

SEC. 7. The general assembly may require the exhibit of receipts and expenditures of State and county officers at such time and manner as may be prescribed by law.

SEC. 8. No money shall be paid out of the treasury until the same shall have been appropriated by law.

SEC. 9. The State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; and the money arising from the creation of such debts shall be appropriated to the purpose for which it was obtained, or to pay the debt so contracted, and to no other.

SEC. 10. In addition to the above power, the State may contract debts to repel invasion, suppress insurrection, preserve the public peace, defend the State in time of war, or to redeem the present outstanding indebtedness of the State; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, and no other, and all debts incurred to redeem the present outstanding indebtedness of the State, shall be so contracted as to be payable by the sinking-fund, hereinafter provided for, as the same shall accumulate.

SEC. 11. The faith of the State being pledged for the payment of its debt, in order to provide therefor, there shall be created a sinking-fund; which shall be sufficient to pay the accruing interest on such debt, and annually to reduce the same. The said sinking-fund shall consist of such net earnings and profits, of public institutions, bonds, stocks or other property of the State, or of any other funds or resources, that are or may be provided by law.

SEC. 12. The governor, secretary of state, and attorney-general, are hereby created a board of commissioners to be styled "the commissioners of the sinking-fund."

SEC. 13. The commissioners of the sinking-fund shall, immediately preceding each regular session of the general assembly, make an estimate of the probable amount of the fund provided by the eleventh section of this article, from all sources, except from taxation, and report the same, together with all their proceedings relative to said fund and the public debt, and transmit the same to the general assembly, and the general assembly shall make all necessary provision for raising and disbursing said sinking-fund, in pursuance of the provisions of this article.

SEC. 14. It shall be the duty of said commissioners faithfully to apply in such manner as the general assembly may by law direct, said fund, together with all moneys that may be, by the general assembly, appropriated to that object, to the payment of the interest as it becomes due and the redemption of the principal of the public debt of the State, excepting only school and trust funds held by the State.

SEC. 15. The principal arising from the sale of all lands donated to the State for school purposes, shall be paid into the treasury, and the State shall pay interest thereon for the support of schools at the rate of six per cent. per annum.

SEC. 16. The State shall never assume the debts of county, town, city or other corporation, unless such debts have been created to repel invasion, suppress insurrection, or to provide for the public welfare and defence.

SEC. 17. The general assembly shall tax all privileges, pursuits and occupations, that are of no real use to society; all others shall be exempt, and the amount thus raised shall be paid into the treasury.

ARTICLE XI.

MILITIA.

SECTION 1. All able-bodied electors in this State, shall be liable to military duty in the militia of this State, but all citizens of any denomination whatever who from scruples of conscience may be adverse to bearing arms, shall be exempt therefrom, upon such conditions as may be prescribed by law.

SEC. 2. The general assembly shall provide for organizing, equipping, and disciplining the militia in such manner as it shall deem expedient, not incompatible with the laws of the United States.

SEC. 3. The governor shall be commander-in-chief, and shall have power to call out the militia to execute the laws, to suppress insurrection, to repel invasion, and to preserve the public peace.

ARTICLE XII.

EXEMPTED PROPERTY.

SECTION 1. The personal property of any resident of this State, to the value of two thousand dollars, to be selected by such resident, shall be exempted from sale on execution or other final process of any court issued for the collection of any debt contracted after the adoption of this constitution.

SEC. 2. Hereafter the homestead of any resident of this State who is a married man or head of a family shall not be encumbered in any manner while owned by him, except for taxes, laborers, and mechanics' liens, and securities for the purchase-money thereof.

SEC. 3. Every homestead not exceeding one hundred and sixty acres of land, and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any town, city, or village, or in lieu thereof, at the option of the owner, any lot in any city, town, or village, with the dwelling and appurtenances thereon, owned and occupied by any resident of this State, and not exceeding the value of five thousand dollars, shall be exempted from sale on execution or any other final process from any court; but no property shall be exempt from sale for taxes, for the payment of obligations contracted for the purchase of said premises, for the erection of improvements thereon, or for labor performed for the owner thereof: *Provided*, That the benefit of the homestead herein provided for shall not be extended to persons who may be indebted for dues to the State, county, township, school, or other trust funds.

SEC. 4. If the owner of a homestead die, leaving a widow but no children, the same shall be exempt, and the rents and profits thereof shall accrue to her benefit during the time of her widowhood, unless she be the owner of a homestead in her own right.

SEC. 5. The homestead of a family after the death of the owner thereof shall be exempt from the payment of his debts in all cases during the minority of his children, and also so long as his widow shall remain unmarried, unless she be the owner of a homestead in her own right.

SEC. 6. The real and personal property of any female in this State, acquired either before or after marriage, whether by gift, grant, inheritance, devise, or otherwise, shall, so long as she may choose, be and remain the separate estate and property of such female, and may be devised or bequeathed by her the same as if she were a *feme-sole*. Laws shall be passed providing for the registration of the wife's separate property, and when so registered, and so long as it is not intrusted to the management or control of her husband otherwise than as an agent, it shall not be liable for any of his debts, engagements, or obligations.

ARTICLE XIII.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Any amendments to this constitution may be proposed in either house of the general assembly, and if the same shall be agreed to by a majority of the members elected to each of the two houses such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published as provided by law for three months previous to the time of making such choice; and if in the general assembly so next chosen as aforesaid such proposed amendment or amendments shall be agreed

to by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people, in such manner and at such time as the general assembly shall provide; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the general assembly voting thereon, such amendment or amendments shall become a part of the constitution of this State.

SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of said amendments separately.

ARTICLE XIV.

APPORTIONMENT.

SECTION 1. The congressional districts shall remain as they now are: *Provided*, That the general assembly may, at the first session held after the adoption of this constitution, redistrict the State for congressional purposes.

SEC. 2. Until after the apportionment, as herein provided for, the senatorial and representative districts shall be composed of the following counties, to wit: the 1st of Jackson, Craighead, Poinsett, Cross, and Mississippi; 2d, of Lawrence, Randolph, and Greene; 3d, of Madison, Marion, Carroll, Fulton, and Izard; 4th, of Independence and Van Buren; 5th, of Searcy, Pope, and Conway; 6th, of Newton, Johnson, and Yell; 7th, of Washington and Benton; 8th, of Crawford, Franklin, and Sebastian; 9th, of Crittenden, Saint Francis, and Woodruff; 10th, of Pulaski and White; 11th, of Phillips and Monroe; 12th, of Prairie and Arkansas; 13th, of Scott, Polk, Montgomery, and Hot Springs; 14th, of Hempstead; 15th, of Lafayette and Little River; 16th, of Union and Calhoun; 17th, of Clark, Pike, and Sevier; 18th, of Columbia; 19th, of Ouachita; 20th, of Jefferson and Bradley; 21st, of Dallas, Saline, and Perry; 22d, of Ashley, Chicot, Drew, and Desha. The senators and representatives shall be apportioned among the several senatorial and representative districts as follows, to wit:

1st district—one senator and four representatives.
2d district—one senator and three representatives.
3d district—one senator and four representatives.
4th district—one senator and three representatives.
5th district—one senator and three representatives.
6th district—one senator and three representatives.
7th district—one senator and four representatives.
8th district—one senator and four representatives.
9th district—one senator and four representatives.
10th district—two senators and six representatives.
11th district—two senators and six representatives.
12th district—one senator and four representatives.
13th district—one senator and three representatives.
14th district—one senator and three representatives.
15th district—one senator and three representatives.
16th district—one senator and two representatives.
17th district—one senator and four representatives.
18th district—one senator and three representatives.
19th district—one senator and two representatives.
20th district—two senators and six representatives.
21st district—one senator and two representatives.
22d district—two senators and six representatives.

ARTICLE XV.

MISCELLANEOUS PROVISIONS.

SECTION 1. The president of the convention shall, immediately after the adjournment thereof, cause this constitution to be deposited in the office of the secretary of state, and shall transmit a copy of the same to the President of the United States, to be by him laid before the Congress of the United States.

SEC. 2. In all cases not otherwise provided for in this constitution, the general assembly may determine the mode of filling all vacancies in all offices, and of choosing all necessary officers, and shall define their respective powers and duties, and provide suitable compensation for all officers.

SEC. 3. All general elections shall be held on the Tuesday succeeding the first Monday in November, and shall be biennial, commencing at the general election of A. D. 1868; but all officers elected under the provisions of this constitution and schedule, except members of Congress, at the election commencing on the 13th day of March, 1868, shall hold and continue in office, in accordance with the provisions of this constitution, the same as though elected at the general election, to be held on the Tuesday succeeding the first Monday in November, 1868; and no election shall be held for said officers at the general election of 1868.

SEC. 4. All chartered cities and villages under the laws of this State shall hold their municipal elections for the year 1868 at such times and places as may be provided in this constitution and the schedule to the same.

SEC. 5. The term of office of all township and precinct officers shall expire thirty days after this constitution goes into effect, and the governor shall thereafter appoint such officers, whose term of office shall continue until the general assembly shall provide by law for an election of said officers.

SEC. 6. Until the general assembly shall otherwise provide, a prosecuting attorney for each judicial circuit shall be appointed by the governor, by and with the advice and consent of the senate, who shall hold his office for the term of four years, and until his successor is chosen and qualified: *Provided*, That the general assembly shall not interfere with the term of any appointed prosecuting attorney.

SEC. 7. The compensation of senators and representatives shall be six dollars per diem during the first session after the adoption of this constitution, but may afterwards be prescribed by law: *Provided*, No increase of compensation shall be prescribed which shall take effect until the period for which the members of the house of representatives then existing shall have expired.

SEC. 8. Senators and representatives shall receive twenty cents for each mile necessarily travelled in going to and returning from the seat of government in attending each session of the general assembly, until otherwise provided by law.

SEC. 9. All salaries, fees, and per diem, or other compensation of all State, county, town, or other officers within the State, shall be payable in such funds as may by law be receivable for State taxes.

SEC. 10. Any public fund set apart by the general assembly for one purpose shall not be used for another unless in each case otherwise specially authorized by law.

SEC. 11. This convention shall appoint not more than three persons, learned in the law, whose duty it shall be to revise and re-arrange the statute-laws of this State, both civil and criminal, so as to have but one law on any one subject; and also three other persons, learned in the law, whose duty it shall be to prepare a code of practice for the courts, both civil and criminal, in this State, by abridging and simplifying the rules of practice and laws in relation thereto; all of whom shall, at as early a day as practicable, report the result of their labors to the general assembly for their adoption or modification. The general assembly shall provide suitable compensation for said persons appointed as aforesaid.

SEC. 12. No county now established by law shall ever be reduced, by the establishment of any new county or counties, to less than six hundred square miles; nor shall any county be hereafter established which shall contain less than six hundred square miles.

SEC. 13. No indenture of any person hereafter made and executed out of this State, or, if made in this State, where the term of service exceeds one year, shall be of the least validity, except those given in cases of apprenticeships, which shall not be for a longer term than until the apprentice shall arrive at the age of twenty-one years if a male, or eighteen years if a female.

SEC. 14. All contracts for the sale or purchase of slaves are null and void, and no court of this State shall take cognizance of any suit founded on such contracts, nor shall any amount ever be collected or recovered on any judgment or decree which

shall have been, or which hereafter may be, rendered on account of any such contract or obligation on any pretext, legal or otherwise.

SEC. 15. There shall be a great seal of the State, which shall be kept and used officially by the secretary of state; and the seal heretofore in use in this State shall continue to be the great seal of the State until another shall have been adopted by the general assembly.

SEC. 16. Private seals are hereby abolished, and hereafter no distinction shall exist between sealed and unsealed instruments concerning contracts between individuals. All laws of this State not in conflict with this constitution shall remain in full force until otherwise provided by the general assembly, or until they expire by their own limitation. Nothing herein shall be construed to impair vested rights under provisions of existing laws.

SEC. 17. All officers of this State, executive, legislative, and judicial, before they enter upon the duties of their respective offices, shall take the following oath: "I, ——— ———, do solemnly swear (or affirm) that I am not disfranchised by the Constitution or laws of the United States or the constitution of the State of Arkansas; that I will honestly and faithfully support and defend the Constitution and laws of the United States, the Union of States, and the constitution and laws of the State of Arkansas; and that I will honestly and faithfully discharge the duties of the office on which I am about to enter to the best of my ability. So help me God."

SEC. 18. The term of all officers elected or appointed under the provisions of this constitution shall expire on the 1st day of January, 1873, unless herein otherwise provided.

SEC. 19. No one shall be precluded from being elected or appointed to any office by reason of having been a delegate to this convention or an officer of the same.

SEC. 20. No person shall be allowed or qualified to sit on any jury who is not a qualified elector.

SEC. 21. The general assembly may, by general law, declare the legal rate of interest upon contracts in which no rate of interest is specified, but no law limiting the rate of interest for which individuals may contract in this State shall ever be passed.

SEC. 22. All judges and clerks of election appointed under provisions of this constitution shall take and subscribe to the oath of an elector as provided in section 5 of Article VIII before they enter upon the duties of said offices; and said judges are hereby authorized to administer the oath to each other and to the clerks; also to administer the same to all electors offering to vote. Said judges and clerks shall also swear to discharge their respective duties to the best of their ability according to law. Judges of election may appoint a suitable number of persons, who shall, with themselves, be conservators of the peace, and they are hereby empowered to arrest all offenders. Any one refusing to act as such, when called on by the judges, shall be subject to a fine of at least one hundred dollars, or imprisonment not less than six months, or both.

SCHEDULE.

SECTION 1. On the 13th day of March, A. D. 1868, and such successive days as hereinafter provided, an election shall be held for members of the House of Representatives of the United States, governor, lieutenant-governor, secretary of state, auditor, treasurer, attorney-general, superintendent of public instruction, judges of the supreme court, members of the general assembly, and all county officers, and also for the submission of this constitution to the people for their adoption or rejection.

SEC. 2. Upon the days designated as aforesaid, every qualified elector under the provisions of this constitution may vote for all officers to be elected under this constitution at such election, and also for or against the adoption of this constitution.

SEC. 3. In voting for or against the adoption of this constitution, the words "for constitution" or "against constitution" shall be written or printed on the ballot of each voter, but no voter shall vote for or against this constitution on a separate ballot from that cast by him for officers to be elected at said election under this constitution.

SEC. 4. A board of commissioners is hereby appointed, to consist of James L.

Hodges, Joseph Brooks, and the president of this convention, any two of whom shall constitute a quorum to transact business, who shall keep an office for the transaction of business in Little Rock, and who may employ such clerical force as may be necessary, said clerks not to receive more per day for each day actually employed than the per diem paid the assistant secretaries of this convention, and who are empowered and authorized to appoint, or cause to be appointed, suitable persons for judges and clerks of election in each county in this State, to hold the election therein for all State and county officers, and for members of the general assembly and of the House of Representatives of the United States, and also for the ratification of this constitution. Said election shall be held at such times and places in each county, commencing on the 13th day of March, and continuing on such successive days as the commissioners may direct, to secure a full and fair vote at such election.

SEC. 5. The judges of election appointed as aforesaid shall make returns of the same to said commissioners in such manner and under such regulations as said commissioners may prescribe, which returns shall show the number of votes cast at said election for and against this constitution, and the number cast for each candidate for the offices provided for in this constitution and schedule.

SEC. 6. Any person contesting the election under this constitution for any State officer or member of the general assembly, shall do so before said board of commissioners, who shall have power to decide and declare the right to any office contested, and give the candidate legally elected a certificate of the same: *Provided*, Said commissioners may, in the cases of members of the general assembly whose right to the seats may be contested, refer the same to the general assembly for their determination. Said board of commissioners shall appoint the judges and clerks of the municipal elections to be held under the provisions of this constitution. Said judges shall conduct and make returns of said elections in the manner prescribed by the charter of the city or village in which said municipal election shall be held.

SEC. 7. Said commissioners shall appoint suitable persons as boards in every county, to hear and decide all cases of contested county elections.

SEC. 8. The said commissioners shall have power to inquire into the fairness or validity of the voting upon the ratification of this constitution, and to count the votes given at said election, and thall reject all fraudulent or illegal votes cast at said election; and said commissioners shall also have power, whenever it is made to appear that fraud, fear, violence, improper influence, or restraint were used, or persons were prevented or intimidated from voting at such elections, to take such steps, either by setting aside the election and ordering a new one, or rejecting votes, or correcting the result in any county or precinct as may in such cases be just and equitable.

SEC. 9. The said commissioners shall declare the result of the election upon the ratification of this constitution, and, if adopted, the president of this convention shall transmit a certified copy of the same, together with an abstract of the votes cast, to the President of the United States, to be by him laid before the Congress of the United States for their approval or rejection, and shall also declare the officers elected thereunder; and if declared ratified, the constitution shall from and after that date be in full force and effect.

SEC. 10. No person disqualified from voting or registering under this constitution shall vote for candidates for any office, nor shall be permitted to vote for the ratification or rejection of this constitution at the polls herein authorized. The governor and all other officers elected under this constitution shall enter upon the duties of their offices when they shall have been declared duly elected by said board of commissioners, and shall have been duly qualified. All officers shall qualify and enter upon the discharge of the duties of their offices within fifteen days after they have been duly notified of their election or appointment.

SEC. 11. Upon notice of the election or appointment and qualification of the officers elected or appointed under this constitution, the present incumbents of all State, county, and city offices shall vacate the same and turn over to the officers so elected or appointed and qualified hereunder all books, papers, records, moneys, and documents belonging or pertaining to said offices on application made by the officers elected or appointed and qualified under this constitution.

SEC. 12. Any person may vote at the polls herein authorized for the election of officers and ratification of this constitution whom the judges of said election shall be satisfied by oath of the person offering to vote, and such other satisfactory evidence as they may require, is a legally qualified elector under this constitution: *Provided*, The judges of election shall administer to every person offering to vote at said election the oath prescribed in this constitution.

SEC. 13. In the event that either of the three commissioners appointed by section 4 hereof should be a candidate for any office, the other two commissioners shall canvass the vote, so far as it relates to that office, and issue the certificate to the person elected.

SEC. 14. In case of death or any disability of any member or members of said board of commissioners, the remaining commissioner or commissioners shall have power to fill such vacancy; and said commissioner or commissioners so appointed shall have full power to act as though originally appointed.

SEC. 15. Any person selling or giving away intoxicating liquor, during the time of the election herein provided for, shall be punished by a fine not less than two hundred dollars, for each and every offense, or imprisonment not less than six months, or both.

SEC. 16. Said commissioners shall provide suitable poll-books for each county, and such instructions as may be necessary to carry into effect the provisions of this schedule. Judges and clerks of election thus appointed shall receive the same per diem as the boards of registers provided for in the act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and acts supplementary thereto.

SEC. 17. The commissioners herein appointed shall receive for their services, for each day actually employed, such compensation per day, and allowances, and in such manner, as are now provided for members of this convention. All expenses incurred under this schedule, not otherwise provided for, shall be paid out of the appropriation for defraying the expenses of this convention.

Done in convention, at Little Rock, the eleventh day of February, in the year of our Lord one thousand eight hundred and sixty-eight, and of the Independence of the United States the ninety-second. In witness whereof we have hereunto subscribed our names.

THOS. M. BOWEN, *President*.

JOHN G. PRICE, *Secretary*.

CONSTITUTION OF ARKANSAS—1874.*

PREAMBLE.

We, the people of the State of Arkansas, grateful to Almighty God for the privilege of choosing our own form of government, for our civil and religious liberty, and desiring to perpetuate its blessings, and secure the same to ourselves and our posterity, do ordain and establish this constitution.

ARTICLE I.

BOUNDARIES.

We do declare and establish, ratify and confirm, the following as the permanent boundaries of the State of Arkansas, that is to say: Beginning at the middle of the main channel of the Mississippi River, on the parallel of thirty-six degrees of north latitude; running thence west with said parallel of latitude to the middle of the

*Adopted in convention, and ratified by the people October 13, 1874.

main channel of the Saint Francis River; thence up the main channel of said last-named river to the parallel of thirty-six degrees thirty minutes of north latitude; thence west with the southern boundary-line of the State of Missouri to the south-west corner of said last-named State; thence to be bounded on the west to the north bank of Red River, as by act of Congress and treaties existing January 1, 1837, defining the western limits of the Territory of Arkansas, and to be bounded across and south of Red River by the boundary-line of the State of Texas as far as to the north-west corner of the State of Louisiana; thence easterly with the northern boundary-line of said last-named State to the middle of the main channel of the Mississippi River; thence up the middle of the main channel of said last-named river, including an island in said river known as "Belle Point Island," and all other land originally surveyed and included as a part of the Territory or State of Arkansas to the thirty-sixth degree of north latitude, the place of beginning.

SEAT OF GOVERNMENT.

The seat of government of the State of Arkansas shall be and remain at Little Rock, where it is now established.

ARTICLE II.

DECLARATION OF RIGHTS.

SECTION 1. All political power is inherent in the people, and government is instituted for their protection, security, and benefit; and they have the right to alter, reform, or abolish the same in such manner as they may think proper.

SEC. 2. All men are created equally free and independent, and have certain inherent and inalienable rights; amongst which are those of enjoying and defending life and liberty; of acquiring, possessing, and protecting property and reputation; and of pursuing their own happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

SEC. 3. The equality of all persons before the law is recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege, or immunity, nor exempted from any burden or duty, on account of race, color, or previous condition.

SEC. 4. The right of the people peaceably to assemble, to consult for the common good, and to petition, by address or remonstrance, the government, or any department thereof, shall never be abridged.

SEC. 5. The citizens of this State shall have the right to keep and bear arms, for their common defense.

SEC. 6. The liberty of the press shall forever remain inviolate. The free communication of thoughts and opinions is one of the invaluable rights of man; and all persons may freely write and publish their sentiments on all subjects, being responsible for the abuse of such right. In all criminal prosecutions for libel, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party charged shall be acquitted.

SEC. 7. The right of trial by jury shall remain inviolate, and shall extend to all cases at law, without regard to the amount in controversy; but a jury-trial may be waived by the parties in all cases, in the manner prescribed by law.

SEC. 8. No person shall be held to answer a criminal charge unless on the presentment or indictment of a grand jury, except in cases of impeachment, or cases such as the general assembly shall make cognizable by justices of the peace, and courts of similar jurisdiction; or cases arising in the Army and Navy of the United States; or in the militia, when in actual service in time of war or public danger; and no person, for the same offense, shall be twice put in jeopardy of life or liberty; but if in any criminal prosecution the jury be divided in opinion, the court before which the trial shall be had may, in its discretion, discharge the jury, and commit or bail the

accused for trial at the same or the next term of said court; nor shall any person be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

SEC. 9. Excessive bail shall not be required; nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted, nor witnesses be unreasonably detained.

SEC. 10. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county in which the crime shall have been committed: *Provided*, That the venue may be changed to any other county of the judicial district in which the indictment is found, upon the application of the accused, in such manner as now is or may be prescribed by law; and to be informed of the nature and cause of the accusation against him, and to have a copy thereof; and to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to be heard by himself and his counsel.

SEC. 11. The privilege of the writ of *habeas corpus* shall not be suspended, except by the general assembly, in case of rebellion, insurrection, or invasion, when the public safety may require it.

SEC. 12. No power of suspending or setting aside the law or laws of the State shall ever be exercised, except by the general assembly.

SEC. 13. Every person is entitled to a certain remedy in the laws for all injuries or wrongs he may receive in his person, property, or character; he ought to obtain justice freely, and without purchase, completely and without denial, promptly and without delay, conformably to the laws.

SEC. 14. Treason against the State shall only consist in levying and making war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 15. The right of the people of this State to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue, except upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

SEC. 16. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud.

SEC. 17. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts shall ever be passed; and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 18. The general assembly shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

SEC. 19. Perpetuities and monopolies are contrary to the genius of a republic, and shall not be allowed, nor shall any hereditary emoluments, privileges, or honors ever be granted or conferred in this State.

SEC. 20. No distinction shall ever be made by law between resident aliens and citizens, in regard to the possession, enjoyment, or descent of property.

SEC. 21. No person shall be taken or imprisoned, or disseized of his estate, freehold, liberties, or privileges; or outlawed, or in any manner destroyed, or deprived of his life, liberty, or property, except by the judgment of his peers, or the law of the land; nor shall any person, under any circumstances, be exiled from the State.

SEC. 22. The right of property is before and higher than any constitutional sanction; and private property shall not be taken, appropriated, or damaged for public use, without just compensation therefor.

SEC. 23. The State's ancient right of eminent domain, and of taxation, is herein fully and expressly conceded; and the general assembly may delegate the taxing power, with the necessary restriction, to the State's subordinate, political, and municipal corporations, to the extent of providing for their existence, maintenance, and well-being, but no further.

SEC. 24. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent. No human authority can, in any case or manner whatsoever, control or interfere with the right of conscience; and no preference shall ever be given by law to any religious establishment, denomination, or mode of worship above any other.

SEC. 25. Religion, morality, and knowledge being essential to good government, the general assembly shall enact suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship.

SEC. 26. No religious test shall ever be required of any person as a qualification to vote or hold office; nor shall any person be rendered incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths or affirmations.

SEC. 27. There shall be no slavery in this State, nor involuntary servitude, except as a punishment for crime. No standing army shall be kept in time of peace; the military shall at all times be in strict subordination to the civil power; and no soldier shall be quartered in any house or on any premises without the consent of the owner in time of peace; nor in time of war, except in a manner prescribed by law.

SEC. 28. All lands in this State are declared to be allodial; and feudal tenures of every description, with all their incidents, are prohibited.

SEC. 29. This enumeration of rights shall not be construed to deny or disparage others retained by the people; and to guard against any encroachments on the rights herein retained, or any transgression of any of the higher powers herein delegated, we declare that everything in this article is excepted out of the general powers of the government, and shall forever remain inviolate; and that all laws contrary thereto, or to the other provisions herein contained, shall be void.

ARTICLE III.

FRANCHISE AND ELECTIONS.

SECTION 1. Every male citizen of the United States, or male person who has declared his intention of becoming a citizen of the same, of the age of twenty-one years, who has resided in the State twelve months, and in the county six months, and in the voting precinct or ward one month, next preceding any election, where he may propose to vote, shall be entitled to vote at all elections by the people.

SEC. 2. Elections shall be free and equal. No power, civil or military, shall ever interfere to prevent the free exercise of the right of suffrage; nor shall any law be enacted whereby the right to vote at any election shall be made to depend upon any previous registration of the elector's name; or whereby such right shall be impaired or forfeited, except for the commission of a felony at common law, upon lawful conviction thereof.

SEC. 3. All elections by the people shall be by ballot. Every ballot shall be numbered in the order in which it shall be received, and the number recorded by the election officers, on the list of voters, opposite the name of the elector who presents the ballot. The election officers shall be sworn or affirmed not to disclose how any elector shall have voted, unless required to do so as witnesses in a judicial proceeding, or a proceeding to contest an election.

SEC. 4. Electors shall in all cases (except treason, felony, and breach of the peace) be privileged from arrest during their attendance at elections, and going to and from the same.

SEC. 5. No idiot or insane person shall be entitled to the privileges of an elector.

SEC. 6. Any person who shall be convicted of fraud, bribery, or other wilful and corrupt violation of any election law of this State, shall be adjudged guilty of a felony, and disqualified from holding any office of trust or profit in this State.

SEC. 7. No soldier, sailor, or marine, in the military or naval service of the United States, shall acquire a residence by reason of being stationed on duty in this State.

Sec. 8. The general elections shall be held biennially, on the first Monday of September; but the general assembly may, by law, fix a different time.

Sec. 9. In trials of contested elections and in proceedings for the investigation of elections, no person shall be permitted to withhold his testimony on the ground that it may criminate himself, or subject him to public infamy; but such testimony shall not be used against him in any judicial proceeding, except for perjury, in giving such testimony.

Sec. 10. No person shall be qualified to serve as an election officer who shall hold, at the time of the election, any office, appointment, or employment in or under the Government of the United States, or of this State, or in any city or county, or any municipal board, commission, or trust, in any city, save only the justices of the peace and aldermen, notaries public and persons in the militia service of the State. Nor shall any election officer be eligible to any civil office to be filled at an election at which he shall serve, save only to such subordinate municipal or local offices, below the grade of city or county officers, as shall be designated by general law.

Sec. 11. If the officers of any election shall unlawfully refuse or fail to receive, count, or return the vote or ballot of any qualified elector, such vote or ballot shall nevertheless be counted upon the trial of any contest arising out of said election.

Sec. 12. All elections by persons acting in a representative capacity shall be *viva voce.*

ARTICLE IV.

DEPARTMENTS.

Section 1. The powers of the government of the State of Arkansas shall be divided into three distinct departments, each of them to be confided to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

Sec. 2. No person or collection of persons, being of one of these departments, shall exercise any power belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE V.

LEGISLATIVE.

Section 1. The legislative power of this State shall be vested in a general assembly, which shall consist of the senate and house of representatives.

Sec. 2. The house of representatives shall consist of members to be chosen every second year by the qualified electors of the several counties.

Sec. 3. The senate shall consist of members to be chosen every four years by the qualified electors of the several districts. At the first session of the senate, the senators shall divide themselves into two classes, by lot, and the first class shall hold their places for two years only, after which all shall be elected for four years.

Sec. 4. No person shall be a senator or representative who, at the time of his election, is not a citizen of the United States, nor any one who has not been for two years next preceding his election a resident of this State, and for one year next preceding his election a resident of the county or district whence he may be chosen. Senators shall be at least twenty-five years of age, and representatives at least twenty-one years of age.

Sec. 5. The general assembly shall meet at the seat of government every two years, on the first Tuesday after the second Monday in November, until said time be altered by law.

Sec. 6. The governor shall issue writs of election to fill such vacancies as shall occur in either house of the general assembly.

Sec. 7. No judge of the supreme, circuit, or inferior courts of law or equity, secretary of state, attorney-general for the State, auditor, or treasurer, recorder, clerk of any court of record, sheriff, coroner, member of Congress, nor any other person holding any lucrative office under the United States or this State, (militia officers, justices

of the peace, postmasters, officers of public schools, and notaries excepted,) shall be eligible to a seat in either house of the general assembly.

SEC. 8. No person who now is, or shall be hereafter, a collector or holder of public money, nor any assistant or deputy of such holder or collector of public money, shall be eligible to a seat in either house of the general assembly, nor to any office of trust or profit, until he shall have accounted for and paid over all sums for which he may have been liable.

SEC. 9. No person hereafter convicted of embezzlement of public money, bribery, forgery, or other infamous crime, shall be eligible to the general assembly, or capable of holding any office of trust or profit in this State.

SEC. 10. No senator or representative shall, during the term for which he shall have been elected, be appointed or elected to any civil office under this State.

SEC. 11. Each house shall appoint its own officers, and shall be sole judge of the qualifications, returns, and elections of its own members. A majority of all the members elected to each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each house shall provide.

SEC. 12. Each house shall have power to determine the rules of its proceedings, and punish its members or other persons for contempt or disorderly behavior in its presence; enforce obedience to its process; to protect its members against violence or offers of bribes, or private solicitations; and, with the concurrence of two-thirds, expel a member; but not a second time for the same cause. A member expelled for corruption shall not thereafter be eligible to either house, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offence. Each house shall keep a journal of its proceedings, and, from time to time, publish the same, except such parts as require secrecy; and the yeas and nays on any question shall, at the desire of any five members, be entered on the journals.

SEC. 13. The sessions of each house and of committees of the whole shall be open, unless when the business is such as ought to be kept secret.

SEC. 14. Whenever an officer, civil or military, shall be appointed by the joint or concurrent vote of both houses, or by the separate vote of either house of the general assembly, the vote shall be taken *viva voce*, and entered on the journals.

SEC. 15. The members of the general assembly shall, in all cases except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 16. The members of the general assembly shall receive such per diem pay and mileage for their services as shall be fixed by law. No member of either house shall, during the term for which he has been elected, receive any increase of pay for his services under any law passed during such term. The term of all members of the general assembly shall begin on the day of their election.

SEC. 17. The regular biennial sessions shall not exceed sixty days in duration, unless by a vote of two-thirds of the members elected to each house of said general assembly: *Provided*, That this section shall not apply to the first session of the general assembly under this constitution, or when impeachments are pending.

SEC. 18. Each house, at the beginning of every regular session of the general assembly, and whenever a vacancy may occur, shall elect from its members a presiding officer, to be styled, respectively, the president of the senate and the speaker of the house of representatives; and whenever, at the close of any session, it may appear that the term of the member elected president of the senate will expire before the next regular session, the senate shall elect another president from those members whose terms of office continue over, who shall qualify and remain president of the senate until his successor may be elected and qualified; and who, in the case of a vacancy in the office of governor, shall perform the duties and exercise the powers of governor as elsewhere herein provided.

SEC. 19. The style of the laws of the State of Arkansas shall be: "Be it enacted by the general assembly of the State of Arkansas."

SEC. 20. The State of Arkansas shall never be made defendant in any of her courts.

SEC. 21. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

SEC. 22. Every bill shall be read at length, on three different days, in each house, unless the rules be suspended by two-thirds of the house, when the same may be read a second or third time on the same day; and no bill shall become a law, unless, on its final passage, the vote be taken by yeas and nays, the names of the persons voting for and against the same be entered on the journal, and a majority of each house be recorded thereon as voting in its favor.

SEC. 23. No law shall be revived, amended, or the provisions thereof extended or conferred by reference to its title only; but so much thereof as is revived, amended, extended, or conferred shall be re-enacted and published at length.

SEC. 24. The general assembly shall not pass any local or special law changing the venue in criminal cases; changing the names of persons, or adopting or legitimating children; granting divorces; vacating roads, streets, or alleys.

SEC. 25. In all cases where a general law can be made applicable no special law shall be enacted, nor shall the operation of any general law be suspended by the legislature for the benefit of any particular individual, corporation, or association, nor where the courts have jurisdiction to grant the powers, or the privileges, or the reliet asked for.

SEC. 26. No local or special bill shall be passed, unless notice of the intention to apply therefor shall have been published in the locality where the matter or the thing to be affected may be situated, which notice shall be at least thirty days prior to the introduction into the general assembly of such bill, and in the manner to be provided by law. The evidence of such notice having been published shall be exhibited in the general assembly before such act shall be passed.

SEC. 27. No extra compensation shall be made to any officer, agent, employé, or contractor after the service shall have been rendered, or the contract made; nor shall any money be appropriated or paid on any claim, the subject-matter of which shall not have been provided for by pre-existing laws, unless such compensation or claim be allowed by bill passed by two-thirds of the members elected to each branch of the general assembly.

SEC. 28. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 29. No money shall be drawn from the treasury except in pursuance of specific appropriation made by law, the purpose of which shall be distinctly stated in the bill, and the maximum amount which may be drawn shall be specified in dollars and cents; and no appropriations shall be for a longer period than two years.

SEC. 30. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative, and judicial departments of the State; all other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 31. No State tax shall be allowed, or appropriation of money made, except to raise means for the payment of the just debts of the State, for defraying the necessary expenses of the government, to sustain common schools, to repel invasion, and suppress insurrection, except by a majority of two thirds of both houses of the general assembly.

SEC. 32. No act of the general assembly shall limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property; and, in case of death from such injuries, the right of action shall survive, and the general assembly shall prescribe for whose benefit such action shall be prosecuted.

SEC. 33. No obligation or liability of any railroad or other corporation held or owned by this State shall ever be exchanged, transferred, remitted, postponed, or in any way diminished by the general assembly, nor shall such liability or obligation be released, except by payment thereof into the State treasury.

SEC. 34. No new bill shall be introduced into either house during the last three days of the session.

SEC. 35. Any person who shall, directly or indirectly, offer, give, or promise any money, or thing of value, testimonial, privilege, or personal advantage, to any executive or judicial officer or member of the general assembly; and any such executive or judicial officer or member of the general assembly who shall receive or consent to receive any such consideration, either directly or indirectly, to influence his action in the performance or non-performance of his public or official duty, shall be guilty of a felony, and be punished accordingly.

SEC. 36. Proceedings to expel a member for a criminal offence, whether successful or not, shall not bar an indictment and punishment, under the criminal laws, for the same offence.

ARTICLE VI.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department of this State shall consist of a governor, secretary of state, treasurer of state, auditor of state, and attorney-general; all of whom shall keep their offices in person at the seat of government, and hold their offices for the term of two years, and until their successors are elected and qualified; and the general assembly may provide by law for the establishment of the office of commissioner of State lands.

SEC. 2. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled "the governor of the State of Arkansas."

SEC. 3. The governor, secretary of state, treasurer of state, auditor of state, and attorney-general shall be elected by the qualified electors of the State at large, at the time and places of voting for members of the general assembly; the returns of each election therefor shall be sealed up separately and transmitted to the seat of government by the returning officers, and directed to the speaker of the house of representatives, who shall, during the first week of the session, open and publish the votes cast and given for each of the respective officers hereinbefore mentioned, in the presence of both houses of the general assembly. The person having the highest number of votes, for each of the respective offices, shall be declared duly elected thereto; but if two or more shall be equal, and highest in votes for the same office, one of them shall be chosen by the joint vote of both houses of the general assembly, and a majority of all the members elected shall be necessary to a choice.

SEC. 4. Contested elections for governor, secretary of state, treasurer of state, auditor of state, and attorney-general shall be determined by the members of both houses of the general assembly, in joint session, who shall have exclusive jurisdiction in trying and determining the same, except as hereinafter provided in the case of special elections; and all such contests shall be tried and determined at the first session of the general assembly after the election in which the same shall have arisen.

SEC. 5. No person shall be eligible to the office of governor except a citizen of the United States, who shall have attained the age of thirty years and shall have been seven years a resident of this State.

SEC. 6. The governor shall be commander-in-chief of the military and naval forces of this State, except when they shall be called into the actual service of the United States.

SEC. 7. He may require information, in writing, from the officers of the executive department, on any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed.

SEC. 8. He shall give to the general assembly from time to time, and at the close of his official term to the next general assembly, information, by message, concerning the condition and government of the State, and recommend for their consideration such measures as he may deem expedient.

SEC. 9. A seal of the State shall be kept by the governor, used by him officially, and called the "Great Seal of the State of Arkansas."

SEC. 10. All grants and commissions shall be issued in the name and by the authority of the State of Arkansas, sealed with the great seal of the State, signed by the governor, and attested by the secretary of state.

SEC. 11. No member of Congress, or other person holding office under the authority of this State or of the United States, shall exercise the office of governor, except as herein provided.

SEC. 12. In case of the death, conviction on impeachment, failure to qualify, resignation, absence from the State, or other disability of the governor, the powers, duties, and emoluments of the office for the remainder of the term, or until the disability be removed, or a governor elected and qualified, shall devolve upon and accrue to the president of the senate.

SEC. 13. If, during the vacancy of the office of governor, the president of the senate shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the speaker of the house of representatives shall, in like manner, administer the government.

SEC. 14. Whenever the office of governor shall have become vacant by death, resignation, removal from office, or otherwise, provided such vacancy shall not happen within twelve months next before the expiration of the term of office for which the late governor shall have been elected, the president of the senate or speaker of the house of representatives, as the case may be, exercising the powers of governor for the time being, shall immediately cause an election to be held to fill such vacancy, giving, by proclamation, sixty days' previous notice thereof, which election shall be governed by the same rules prescribed for general elections of governor as far as applicable; the returns shall be made to the secretary of state, and the acting governor, secretary of state, and attorney-general shall constitute a board of canvassers, a majority of whom shall compare said returns and declare who is elected; and if there be a contested election it shall be decided as may be provided by law.

SEC. 15. Every bill which shall have passed both houses of the general assembly shall be presented to the governor; if he approve it he shall sign it; but if he shall not approve it he shall return it, with his objections, to the house in which it originated, which house shall enter the objections at large upon their journal and proceed to reconsider it. If, after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall be reconsidered, and, if approved by a majority of the whole number elected to that house, it shall be a law; but in such cases the votes of both houses shall be determined by "yeas and nays," and the names of the members voting for or against the bill shall be entered on the journals. If any bill shall not be returned by the governor within five days, Sundays excepted, after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which case it shall become a law, unless he shall file the same, with his objections, in the office of the secretary of state, and give notice thereof, by public proclamation, within twenty days after such adjournment.

SEC. 16. Every order or resolution in which the concurrence of both houses of the general assembly may be necessary, except on questions of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him; or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the case of a bill.

SEC. 17. The governor shall have power to disapprove of any item or items of any bill making appropriation of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriations disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto.

SEC. 18. In all criminal and penal cases, except in those of treason and impeachment, the governor shall have power to grant reprieves, commutations of sentence, and pardons, after conviction, and to remit fines and forfeitures, under such rules and regulations as shall be prescribed by law. In cases of treason he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons;

and he may, in the recess of the senate, respite the sentence until the adjournment of the next regular session of the general assembly. He shall communicate to the general assembly at every regular session each case of reprieve, commutation, or pardon, with his reasons therefor, stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon, or reprieve.

SEC. 19. The governor may, by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy or contagious disease; and he shall specify in his proclamation the purpose for which they are convened, and no other business than that set forth therein shall be transacted until the same shall have been disposed of; after which they may, by a vote of two-thirds of all the members elected to both houses, entered upon their journals, remain in session not exceeding fifteen days.

SEC. 20. In cases of disagreement between the two houses of the general assembly, at a regular or special session, with respect to the time of adjournment, the governor may, if the facts be certified to him by the presiding officers of the two houses, adjourn them to a time not beyond the day of their next meeting; and on account of danger from an enemy or disease, to such other place of safety as he may think proper.

SEC. 21. The secretary of state shall keep a full and accurate record of all the official acts and proceedings of the governor, and, when required, lay the same, with all papers, minutes, and vouchers relating thereto, before either branch of the general assembly. He shall also discharge the duties of superintendent of public instruction, until otherwise provided by law.

SEC. 22. The treasurer of state, secretary of state, auditor of state, and attorney-general shall perform such duties as may be prescribed by law; they shall not hold any other office or commission, civil or military, in this State or under any State, or the United States, or any other power, at one and the same time; and in case of vacancy occurring in any of said offices, by death, resignation, or otherwise, the governor shall fill said office by appointment for the unexpired term.

SEC. 23. When any office, from any cause, may become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have the power to fill the same by granting a commission, which shall expire when the person elected to fill said office, at the next general election, shall be duly qualified.

ARTICLE VII.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State shall be vested in one supreme court, in circuit courts, in county and probate courts, and in justices of the peace. The general assembly may also vest such jurisdiction as may be deemed necessary in municipal-corporation courts, courts of common pleas, where established; and, when deemed expedient, may establish separate courts of chancery.

SEC. 2. The supreme court shall be composed of three judges, one of whom shall be styled chief justice, and elected as such; any two of whom shall constitute a quorum, and the concurrence of two judges shall, in every case, be necessary to a decision.

SEC. 3. When the population of the State shall amount to one million, the general assembly may, if deemed necessary, increase the number of judges of the supreme court to five; and, on such increase, a majority of judges shall be necessary to make a quorum or a decision.

SEC. 4. The supreme court, except in cases otherwise provided by this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions as may from time to time be prescribed by law. It shall have a general superintending control over all inferior courts of law and equity, and, in aid of its appellate and supervisory jurisdiction, it shall have power to issue writs of error and supersedeas, certiorari, habeas corpus, prohibition, mandamus, and quo warranto, and



other remedial writs, and to hear and determine the same. Its judges shall be conservators of the peace throughout the State, and shall severally have power to issue any of the aforesaid writs.

SEC. 5. In the exercise of original jurisdiction the supreme court shall have power to issue writs of quo warranto to the circuit judges and chancellors, when created, and to officers of political corporations when the question involved is the legal existence of such corporations.

SEC. 6. A judge of the supreme court shall be at least thirty years of age, of good moral character, and learned in the law; a citizen of the United States, and two years a resident of the State, and who has been a practising lawyer eight years, or whose service upon the bench of any court of record, when added to the time he may have practiced law, shall be equal to eight years. The judges of the supreme court shall be elected by the qualified electors of the State, and shall hold their offices during the term of eight years from the date of their commissions; but at the first meeting of the court after the first election under this constitution the judges shall, by lot, divide themselves into three classes, one of which shall hold his office for four, one for six, and the other for eight years; after which each judge shall be elected for a full term of eight years. A record shall be made in the court of this classification.

SEC. 7. The supreme court shall appoint its clerk and reporter, who shall hold their offices for six years, subject to removal for good cause.

SEC. 8. The terms of the supreme court shall be held at the seat of government, at the times that now are or may be provided by law.

SEC. 9. In case all or any of the judges of the supreme court shall be disqualified from presiding in any cause or causes, the court, or the disqualified judge, shall certify the same to the governor, who shall immediately commission the requisite number of men learned in the law to sit in the trial and determination of such causes.

SEC. 10. The supreme judges shall, at stated times, receive a compensation for their services, to be ascertained by law, which shall not be, after the adjournment of the next general assembly, diminished during the time for which they shall have been elected. They shall not be allowed any fees or perquisites of office, nor hold any other office of trust or profit under the State or the United States.

SEC. 11. The circuit court shall have jurisdiction in all civil and criminal cases the exclusive jurisdiction of which may not be vested in some other court provided for by this constitution.

SEC. 12. The circuit courts shall hold their terms in each county, at such times and places as are or may be prescribed by law.

SEC. 13. The State shall be divided into convenient circuits, each circuit to be made up of contiguous counties, for each of which circuits a judge shall be elected, who, during his continuance in office, shall reside in, and be a conservator of the peace within, the circuit for which he shall have been elected.

SEC. 14. The circuit court shall exercise a superintending control and appellate jurisdiction over county, probate, court of common pleas, and corporation courts and justices of the peace; and shall have power to issue, hear, and determine all the necessary writs to carry into effect their general and specific powers, any of which writs may be issued upon order of the judge of the appropriate court in vacation.

SEC. 15. Until the general assembly shall deem it expedient to establish courts of chancery, the circuit courts shall have jurisdiction in matters of equity, subject to appeal to the supreme court, in such manner as may be prescribed by law.

SEC. 16. A judge of the circuit court shall be a citizen of the United States, at least twenty-eight years of age, of good moral character, learned in the law, two years a resident of the State, and shall have practised law six years, or whose service upon the bench of any court of record, when added to the time he may have practised law, shall be equal to six years.

SEC. 17. The judges of the circuit courts shall be elected by the qualified electors of the several circuits, and shall hold their offices for the term of four years.

SEC. 18. The judges of the circuit courts shall, at stated times, receive a compensation for their services, to be ascertained by law, which shall not, after the adjournment of the first session of the general assembly, be diminished during the time for which

they are elected. They shall not be allowed any fees or perquisites of office, nor hold any other office of trust or profit under this State or the United States.

SEC. 19. The clerks of the circuit court shall be elected, by the qualified electors of the several counties, for the term of two years, and shall be *ex-officio* clerks of the county and probate courts, and recorder: *Provided*, That in any county having a population exceeding fifteen thousand inhabitants, as shown by the last Federal census, there shall be elected a county clerk, in like manner as clerk of the circuit court, who shall be *ex-officio* clerk of the probate court of said county.

SEC. 20. No judge or justice shall preside in the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by consanguinity or affinity, within such degree as may be prescribed by law; or in which he may have been of counsel, or have presided in any inferior court.

SEC. 21. Whenever the office of judge of the circuit court of any county is vacant at the commencement of a term of such court, or the judge of said court shall fail to attend, the regular practising attorneys in attendance on said court may meet at 10 o'clock a. m., on the second day of the term and elect a judge to preside at such court, or until the regular judge shall appear; and if the judge of said court shall become sick, or die, or unable to continue to hold such court after its term shall have commenced, or shall from any cause be disqualified from presiding at the trial of any cause then pending therein, then the regular practising attorneys in attendance on said court may in like manner, on notice from the judge or clerk of said court, elect a judge to preside at such court or to try said causes; and the attorney so elected shall have the same power and authority in said court as the regular judge would have had if present and presiding; but this authority shall cease at the close of the term at which the election shall be made. The proceedings shall be entered at large upon the record. The special judge shall be learned in the law, and a resident of the State.

SEC. 22. The judges of the circuit courts may temporarily exchange circuits, or hold courts for each other, under such regulations as may be prescribed by law.

SEC. 23. Judges shall not charge juries with regard to matters of fact, but shall declare the law; and, in jury-trials, shall reduce their charge or instructions to writing, on the request of either party.

SEC. 24. The qualified electors of each circuit shall elect a prosecuting attorney, who shall hold his office for the term of two years; and he shall be a citizen of the United States, learned in the law, and a resident of the circuit for which he may be elected.

SEC. 25. The judges of the supreme, circuit, or chancery courts shall not, during their continuance in office, practise law, or appear as counsel in any court, State or Federal, within this State.

SEC. 26. The general assembly shall have power to regulate, by law, the punishment of contempts not committed in the presence or hearing of the courts, or in disobedience to process.

SEC. 27. The circuit court shall have jurisdiction, upon information, presentment, or indictment, to remove any county or township officer from office for incompetency, corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office.

SEC. 28. The county courts shall have exclusive original jurisdiction in all matters relating to county taxes, roads, bridges, ferries, paupers, bastardy, vagrants, the apprenticeship of minors, the disbursement of money for county purposes, and in every other case that may be necessary to the internal improvement and local concerns of the respective counties. The county court shall be held by one judge, except in cases otherwise herein provided.

SEC. 29. The judge of the county court shall be elected by the qualified electors of the county for the term of two years. He shall be at least twenty-five years of age, a citizen of the United States, a man of upright character, of good business education, and a resident of the State for two years before his election, and a resident of the county at the time of his election and during his continuance in office.

SEC. 30. The justices of the peace of each county shall sit with and assist the county judge in levying the county taxes, and in making appropriations for the expenses of

the county, in the manner to be prescribed by law; and the county judge, together with a majority of said justices, shall constitute a quorum for such purposes; and in the absence of the county judge a majority of the justices of the peace may constitute the court, who shall elect one of their number to preside. The general assembly shall regulate by law the manner of compelling the attendance of such quorum.

SEC. 31. The terms of the county courts shall be held at the times that are now prescribed for holding the supervisors' courts, or may hereafter be prescribed by law.

SEC. 32. The general assembly may authorize the judge of the county court of any one or more counties to hold severally a quarterly court of common pleas in their respective counties, which shall be a court of record, with such jurisdiction in matters of contract and other civil matters, not involving title to real estate, as may be vested in such court.

SEC. 33. Appeals from all judgments of county courts or courts of common pleas, when established, may be taken to the circuit court, under such restrictions and regulations as may be prescribed by law.

SEC. 34. The judge of the county court shall be the judge of the court of probate, and have such exclusive original jurisdiction in matters relative to the probate of wills, the estates of deceased persons, executors, administrators, guardians, and persons of unsound mind and their estates, as is now vested in the circuit court, or may be hereafter prescribed by law. The regular terms of the court of probate shall be held at the times that may hereafter be prescribed by law.

SEC. 35. Appeals may be taken from judgments and orders of the probate court to the circuit court, under such regulations and restrictions as may be prescribed by law.

SEC. 36. Whenever a judge of the county or probate court may be disqualified from presiding, in any cause or causes pending in his court, he shall certify the facts to the governor of the State, who shall thereupon commission a special judge to preside in such cause or causes during the time said disqualification may continue, or until such cause or causes may be finally disposed of.

SEC. 37. The county judge shall receive such compensation for his services as presiding judge of the county court, as judge of the court of probate, and judge of the court of common pleas, when established, as may be provided by law. In the absence of the circuit judge from the county, the county judge shall have power to issue orders for injunction and other provisional writs in their counties, returnable to the court having jurisdiction: *Provided*, That either party may have such order reviewed by any superior judge in vacation, in such manner as shall be provided by law. The county judge shall have power, in the absence of the circuit judge from the county, to issue, hear, and determine writs of *habeas corpus*, under such regulations and restrictions as shall be provided by law.

SEC. 38. The qualified electors of each township shall elect the justices of the peace for the term of two years, who shall be commissioned by the governor, and their official oath shall be indorsed on the commission.

SEC. 39. For every two hundred electors there shall be elected one justice of the peace; but every township, however small, shall have two justices of the peace.

SEC. 40. They shall severally have original jurisdiction in the following matters: First. Exclusive of the circuit court, in all matters of contract where the amount in controversy does not exceed the sum of one hundred dollars, excluding interest; and concurrent jurisdiction in matters of contract, where the amount in controversy does not exceed the sum of three hundred dollars, exclusive of interest. Second. Concurrent jurisdiction in suits for the recovery of personal property, where the value of the property does not exceed the sum of three hundred dollars; and in all matters of damage to personal property, where the amount in controversy does not exceed the sum of one hundred dollars. Third. Such jurisdiction of misdemeanors as is now or may be prescribed by law. Fourth. To sit as examining courts, and commit, discharge, or recognize offenders to the court having jurisdiction for further trial; and to bind persons to keep the peace or for good behavior. Fifth. For the foregoing purposes, they shall have power to issue all necessary process. Sixth. They shall be conservators of the peace within their respective counties: *Provided*, A justice of the peace shall not have jurisdiction where a lien on land or title or possession thereto is involved.

SEC. 41. A justice of the peace shall be a qualified elector and a resident of the township for which he is elected.

SEC. 42. Appeals may be taken from the final judgments of the justices of the peace to the circuit courts, under such regulations as are now or may be provided by law.

SEC. 43. Corporation courts, for towns and cities, may be invested with jurisdiction concurrent with justices of the peace in civil and criminal matters; and the general assembly may invest such of them as it may deem expedient with jurisdiction of any criminal offences not punishable by death or imprisonment in the penitentiary, with or without indictment, as may be provided by law; and, until the general assembly shall otherwise provide, they shall have the jurisdiction now provided by law.

SEC. 44. The Pulaski chancery court shall continue in existence until abolished by law, or the business pending at the adoption of this constitution shall be disposed of, or the pending business be transferred to other courts. The judge and clerk of said court shall hold office for the term of two years, and shall be elected by the qualified voters of the State. All suits and proceedings which relate to sixteenth-section lands or money due for said lands, shall be transferred to the respective counties where such lands are located, in such manner as shall be provided by the general assembly at the next session.

SEC. 45. The separate criminal courts established in this State are hereby abolished, and all the jurisdiction exercised by said criminal courts is vested in the circuit courts of the respective counties; and all causes now pending therein are hereby transferred to said circuit courts respectively. It shall be the duty of the clerks of said criminal courts to transfer all the records, books, and papers pertaining to said criminal courts to the circuit courts of their respective counties.

SEC. 46. The qualified electors of each county shall elect one sheriff, who shall be *ex-officio* collector of taxes, unless otherwise provided by law; one assessor; one coroner; one treasurer, who shall be *ex-officio* treasurer of the common-school fund of the county; and one county surveyor, for the term of two years, with such duties as are now or may be prescribed by law: *Provided*, That no per centum shall ever be paid to assessors upon the valuation or assessment of property by them.

SEC. 47. The qualified electors of each township shall elect a constable, for the term of two years, who shall be furnished, by the presiding judge of the county court, with a certificate of election, on which his official oath shall be indorsed.

SEC. 48. All officers provided for in this article, except constables, shall be commissioned by the governor.

SEC. 49. All writs and other judicial process shall run in the name of the State of Arkansas, bear test, and be signed by the clerks of the respective courts from which they issue. Indictments shall conclude: "Against the peace and dignity of the State of Arkansas."

SEC. 50. All vacancies occurring in any office provided for in this article shall be filled by special election, save that in case of vacancies occurring in county and township offices, six months, and in other offices nine months, before the next general election, such vacancies shall be filled by appointment by the governor.

SEC. 51. That in all cases of allowances made for or against counties, cities, or towns, an appeal shall lie to the circuit court of the county, at the instance of the party aggrieved, or on the intervention of any citizen or resident and tax-payer of such county, city, or town, on the same terms and conditions on which appeals may be granted to the circuit court in other cases; and the matter pertaining to any such allowance shall be tried in the circuit court *de novo*. In case an appeal be taken by any citizen, he shall give a bond, payable to the proper county, conditioned to prosecute the appeal and save the county from costs on account of the same being taken.

SEC. 52. That in all cases of contest for any county, township, or municipal office, an appeal shall lie, at the instance of the party aggrieved, from any inferior board, council, or tribunal to the circuit court, on the same terms and conditions on which appeals may be granted to the circuit court in other cases, and on such appeals the case shall be tried *de novo*.

ARTICLE VIII.

APPORTIONMENT.

SECTION 1. The house of representatives shall consist of not less than seventy-three nor more than one hundred members.

Each county now organized shall always be entitled to one representative, the remainder to be apportioned among the several counties according to the number of adult male inhabitants, taking two thousand as the ratio, until the number of representatives amounts to one hundred, when they shall not be further increased, but the ratio of representation shall, from time to time, be increased as hereinafter provided, so that the representatives shall never exceed that number. And until the enumeration of the inhabitants is taken by the United States Government A. D. 1880, the representatives shall he apportioned among the several counties as follows:

The county of Arkansas shall elect one representative.
The county of Ashley shall elect one representative.
The county of Benton shall elect two representatives.
The county of Boone shall elect one representative.
The county of Bradley shall elect one representative.
The county of Baxter shall elect one representative.
The county of Calhoun shall elect one representative.
The county of Carroll shall elect one representative.
The county of Chicot shall elect one representative.
The county of Columbia shall elect two representatives.
The county of Clark shall elect two representatives.
The county of Conway shall elect one representative.
The county of Craighead shall elect one representative.
The county of Crawford shall elect one representative.
The county of Cross shall elect one representative.
The county of Crittenden shall elect one representative.
The county of Clayton shall elect one representative.
The county of Dallas shall elect one representative.
The county of Desha shall elect one representative.
The county of Drew shall elect one representative.
The county of Dorsey shall elect one representative.
The county of Franklin shall elect one representative.
The county of Fulton shall elect one representative.
The county of Faulkner shall elect one representative.
The county of Grant shall elect one representative.
The county of Greene shall elect one representative.
The county of Garland shall elect one representative.
The county of Hempstead shall elect two representatives.
The county of Hot Spring shall elect one representative.
The county of Howard shall elect one representative.
The county of Independence shall elect two representatives.
The county of Izard shall elect one representative.
The county of Jackson shall elect one representative.
The county of Jefferson shall elect three representatives.
The county of Johnson shall elect one representative.
The county of La Fayette shall elect one representative.
The county of Lawrence shall elect one representative.
The county of Little River shall elect one representative.
The county of Lonoke shall elect two representatives.
The county of Lincoln shall elect one representative.
The county of Lee shall elect two representatives.
The county of Madison shall elect one representative.
The county of Marion shall elect one representative.
The county of Monroe shall elect one representative.
The county of Montgomery shall elect one representative.

The county of Mississippi shall elect one representative.
The county of Nevada shall elect one representative.
The county of Newton shall elect one representative.
The county of Ouachita shall elect two representatives.
The county of Perry shall elect one representative.
The county of Phillips shall elect three representatives.
The county of Pike shall elect one representative.
The county of Polk shall elect one representative.
The county of Pope shall elect one representative.
The county of Poinsett shall elect one representative.
The county of Pulaski shall elect four representatives.
The county of Prairie shall elect one representative.
The county of Randolph shall elect one representative.
The county of Saline shall elect one representative.
The county of Sarber shall elect one representative.
The county of Scott shall elect one representative.
The county of Searcy shall elect one representative.
The county of Sebastian shall elect two representatives.
The county of Sevier shall elect one representative.
The county of Sharp shall elect one representative.
The county of Saint Francis shall elect one representative.
The county of Stone shall elect one representative.
The county of Union shall elect two representatives.
The county of Van Buren shall elect one representative.
The county of Washington shall elect three representatives.
The county of White shall elect two representatives.
The county of Woodruff shall elect one representative.
The county of Yell shall elect one representative.

SEC. 2. The legislature shall, from time to time, divide the State into convenient senatorial districts in such manner that the senate shall be based upon the adult male inhabitants of the State, each senator representing an equal number as nearly as practicable; and until the enumeration of the inhabitants is taken by the United States Government, A. D. 1880, the districts shall be arranged as follows:

The counties of Greene, Craighead, and Clayton shall compose the first district, and elect one senator.

The counties of Randolph, Lawrence, and Sharp shall compose the second district, and elect one senator.

The counties of Carroll, Boone, and Newton shall compose the third district, and elect one senator.

The counties of Johnson and Pope shall compose the fourth district, and elect one senator.

The county of Washington shall compose the fifth district, and elect one senator.

The counties of Independence and Stone shall compose the sixth district, and elect one senator.

The counties of Woodruff, Saint Francis, Cross, and Crittenden shall compose the seventh district, and elect one Senator.

The counties of Yell and Sarber shall compose the eighth district, and elect one senator.

The counties of Saline, Garland, Hot Spring, and Grant shall compose the ninth district, and elect one senator.

The counties of Pulaski and Perry shall compose the tenth district, and elect two senators.

The county of Jefferson shall compose the eleventh district, and elect one senator.

The counties of Lonoke and Prairie shall compose the twelfth district, and elect one senator.

The counties of Arkansas and Monroe shall compose the thirteenth district, and elect one senator.

The counties of Phillips and Lee shall compose the fourteenth district, and elect one senator.

The counties of Desha and Chicot shall compose the fifteenth district, and elect one senator.

The counties of Lincoln, Dorsey, and Dallas shall compose the sixteenth district, and elect one senator.

The counties of Drew and Ashley shall compose the seventeenth district, and elect one senator.

The counties of Bradley and Union shall compose the eighteenth district, and elect one senator.

The counties of Calhoun and Ouachita shall compose the nineteenth district, and elect one senator.

The counties of Hempstead and Nevada shall compose the twentieth district, and elect one senator.

The counties of Columbia and La Fayette shall compose the twenty-first district, and elect one senator.

The counties of Little River, Sevier, Howard, and Polk shall compose the twenty-second district, and elect one senator.

The counties of Fulton, Izard, Marion, and Baxter shall compose the twenty-third district, and elect one senator.

The counties of Benton and Madison shall compose the twenty-fourth district, and elect one senator.

The counties of Crawford and Franklin shall compose the twenty-fifth district, and elect one senator.

The counties of Van Buren, Conway, and Searcy shall compose the twenty-sixth district, and elect one senator.

The counties of White and Faulkner shall compose the twenty-seventh district, and elect one senator.

The counties of Sebastian and Scott shall compose the twenty-eighth district, and elect one senator.

The counties of Poinsett, Jackson, and Mississippi shall compose the twenty-ninth district, and elect one senator.

The counties of Clark, Pike, and Montgomery shall compose the thirtieth district, and elect one senator.

And the senate shall never consist of less than thirty nor more than thirty-five members.

SEC. 3. Senatorial districts shall at all times consist of contiguous territory, and no county shall be divided in the formation of a senatorial district.

SEC. 4. The division of the State into senatorial districts and the apportionment of representatives to the several counties shall be made by the general assembly at the first regular session after each enumeration of the inhabitants of the State by the Federal or the State government shall have been ascertained, and at no other time.

ARTICLE IX.

EXEMPTION.

SECTION 1. The personal property of any resident of this State, who is not married or the head of a family, in specific articles, to be selected by such resident, not exceeding in value the sum of two hundred dollars, in addition to his or her wearing-apparel, shall be exempt from seizure on attachment, or sale on execution or other process from any court, issued for the collection of any debt by contract: *Provided*, That no property shall be exempt from execution for debts contracted for the purchase-money therefor while in the hands of the vendee.

SEC. 2. The personal property of any resident of this State, who is married or the head of a family, in specific articles, to be selected by such resident, not exceeding in value the sum of five hundred dollars, in addition to his or her wearing-apparel, and that of his or her family, shall be exempt from seizure on attachment, or sale on execution or other process from any court, on debt by contract.

Sec. 3. The homestead of any resident of this State, who is married or the head of a family, shall not be subject to the lien of any judgment or decree of any court, or to sale under execution, or other process thereon, except such as may be rendered for the purchase-money, or for specific liens, laborers' or mechanics' liens for improving the same, or for taxes, or against executors, administrators, guardians, receivers, attorneys for moneys collected by them, and other trustees of an express trust, for moneys due from them in their fiduciary capacity.

Sec. 4. The homestead outside any city, town, or village, owned and occupied as a residence, shall consist of not exceeding one hundred and sixty acres of land, with the improvements thereon, to be selected by the owner: *Provided*, The same shall not exceed in value the sum of twenty-five hundred dollars, and in no event shall the homestead be reduced to less than eighty acres, without regard to value.

Sec. 5. The homestead in any city, town, or village, owned and occupied as a residence, shall consist of not exceeding one acre of land, with the improvements thereon, to be selected by the owner: *Provided*, The same shall not exceed in value the sum of two thousand five hundred dollars, and in no event shall such homestead be reduced to less than one-quarter of an acre of land, without regard to value.

Sec. 6. If the owner of a homestead die, leaving a widow, but no children, and said widow has no separate homestead in her own right, the same shall be exempt, and the rents and profits thereof shall vest in her during her natural life: *Provided*, That if the owner leaves children, one or more, said child or children shall share with said widow, and be entitled to half the rents and profits till each of them arrives at twenty-one years of age, each child's rights to cease at twenty-one years of age, and the shares to go to the younger children, and then all to go to the widow: *And provided*, That said widow or children may reside on the homestead or not. And, in case of the death of the widow, all of said homestead shall be vested in the minor children of the testator or intestate.

Sec. 7. The real and personal property of any *feme-covert* in this State, acquired either before or after marriage, whether by gift, grant, inheritance, devise, or otherwise, shall, so long as she may choose, be and remain her separate estate and property, and may be devised, bequeathed, or conveyed by her the same as if she were a *feme-sole;* and the same shall not be subject to the debts of her husband.

Sec. 8. The general assembly shall provide for the time and mode of scheduling the separate personal property of married women.

Sec. 9. The exemptions contained in the constitution of 1868 shall apply to all debts contracted since the adoption thereof, and prior to the adoption of this constitution.

Sec. 10. The homestead provided for in this article shall inure to the benefit of the minor children, under the exemptions hereinprovided, after the decease of the parents.

ARTICLE X.

AGRICULTURE, MINING, AND MANUFACTURE.

Section 1. The general assembly shall pass such laws as will foster and aid the agricultural, mining, and manufacturing interests of the State, and may create a bureau, to be known as the mining, manufacturing, and agricultural bureau.

Sec. 2. The general assembly, when deemed expedient, may create the office of State geologist, to be appointed by the governor, by and with the advice and consent of the senate, who shall hold his office for such time, and perform such duties, and receive such compensation as may be prescribed by law: *Provided*, That he shall be at all times subject to removal by the governor for incompetency or gross neglect of duty.

Sec. 3. The general assembly may, by general law, exempt from taxation for the term of seven years from the ratification of this constitution the capital invested in any or all kinds of mining and manufacturing business in this State, under such regulations and restrictions as may be prescribed by law.

ARTICLE XI.

MILITIA.

SECTION 1. The militia shall consist of all able-bodied male persons, residents of the State, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States, or this State, and shall be organized, officered, armed, and equipped, and trained in such manner as may be provided by law.

SEC. 2. Volunteer companies of infantry, cavalry, or artillery may be formed in such manner and with such restrictions as may be provided by law.

SEC. 3. The volunteer and militia forces shall in all cases (except treason, felony, and breach of the peace) be privileged from arrest during their attendance at muster and the election of officers, and in going to and returning from the same.

SEC. 4. The governor shall, when the general assembly is not in session, have power to call out the volunteers or militia, or both, to execute the laws, repel invasion, repress insurrection, and preserve the public peace, in such manner as may be authorized by law.

ARTICLE XII.

MUNICIPAL AND PRIVATE CORPORATIONS.

SECTION 1. All existing charters or grants of special or exclusive privileges, under which a *bona-fide* organization shall not have taken place, and business been commenced in good faith, at the time of the adoption of this constitution, shall thereafter have no validity.

SEC. 2. The general assembly shall pass no special act conferring corporate powers, except for charitable, educational, penal, or reformatory purposes, where the corporations created are to be and remain under the patronage and control of the State.

SEC. 3. The general assembly shall provide by general laws for the organization of cities (which may be classified) and incorporated towns, and restrict their power of taxation, assessment, borrowing money, and contracting debts, so as to prevent the abuse of such power.

SEC. 4. No municipal corporation shall be authorized to pass any laws contrary to the general laws of the State, nor levy any tax on real or personal property to a greater extent in one year than five mills on the dollar of the assessed value of the same: *Provided*, That to pay indebtedness existing at the time of the adoption of this constitution, an additional tax of not more than five mills on the dollar may be levied.

SEC. 5. No county, city, town, or other municipal corporation shall become a stockholder in any company, association, or corporation; or obtain or appropriate money for, or loan its credit to, any corporation, association, institution, or individual.

SEC. 6. Corporations may be formed under general laws; which laws may, from time to time, be altered or repealed. The general assembly shall have the power to alter, revoke, or annul any charter of incorporation now existing and revocable at the adoption of this constitution, or any that may hereafter be created, whenever, in their opinion, it may be injurious to the citizens of this State; in such manner, however, that no injustice shall be done to the corporators.

SEC. 7. Except as herein provided, the State shall never become a stockholder in, or subscribe to, or be interested in, the stock of any corporation or association.

SEC. 8. No private corporation shall issue stocks or bonds, except for money or property actually received or labor done; and all fictitious increase of stock or indebtedness shall be void. Nor shall the stock or bonded indebtedness of any private corporation be increased except in pursuance of general laws, nor until the consent of the persons holding the larger amount, in value, of stock shall be obtained at a meeting held after notice given, for a period not less than sixty days, in pursuance of law.

SEC. 9. No property nor right of way shall be appropriated to the use of any corporation until full compensation therefor shall be first made to the owner in money, or first secured to him by a deposit of money; which compensation, irrespective of any benefit from any improvement proposed by such corporation, shall be ascertained

by a jury of twelve men, in a court of competent jurisdiction, as shall be prescribed by law.

SEC. 10. No act of the general assembly shall be passed authorizing the issuing of bills, notes, or other paper which may circulate as money.

SEC. 11. Foreign corporations may be authorized to do business in this State, under such limitations and restrictions as may be prescribed by law: *Provided*, That no such corporation shall do any business in this State except while it maintains therein one or more known places of business, and an authorized agent or agents in the same, upon whom process may be served; and, as to contracts made or business done in this State, they shall be subject to the same regulations, limitations, and liabilities as like corporations of this State, and shall exercise no other or greater powers, privileges, or franchises than may be exercised by like corporations of this State; nor shall they have power to condemn or appropriate private property.

SEC. 12. Except as herein otherwise provided, the State shall never assume or pay the debt or liability of any county, town, city, or other corporation whatever, or any part thereof, unless such debt or liability shall have been created to repel invasion, suppress insurrection, or to provide for the public welfare and defence. Nor shall the indebtedness of any corporation to the State ever be released or in any manner discharged, save by payment into the public treasury.

ARTICLE XIII.

COUNTIES, COUNTY-SEATS, AND COUNTY-LINES.

SECTION 1. No county now established shall be reduced to an area of less than six hundred square miles, nor to less than five thousand inhabitants; nor shall any new county be established with less than six hundred square miles and five thousand inhabitants: *Provided*, That this section shall not apply to the counties of Lafayette, Pope, and Johnson, nor be so construed as to prevent the general assembly from changing the line between the counties of Pope and Johnson.

SEC. 2. No part of a county shall be taken off to form a new county, or a part thereof, without the consent of a majority of the voters in such part proposed to be taken off.

SEC. 3. No county-seat shall be established or changed without the consent of a majority of the qualified voters of the county to be affected by such change, nor until the place at which it is proposed to establish or change such county-seat shall be fully designated: *Provided*, That in formation of new counties, the county-seat may be located temporarily by provisions of law.

SEC. 4. In the formation of new counties, no line thereof shall run within ten miles of the county-seat of the county proposed to be divided, except the county-seat of Lafayette County.

SEC. 5. Sebastian County may have two districts and two county-seats, at which county, probate, and circuit courts shall be held as may be provided by law, each district paying its own expenses.

ARTICLE XIV.

EDUCATION.

SECTION 1. Intelligence and virtue being the safeguards of liberty and the bulwark of a free and good government, the State shall ever maintain a general, suitable, and efficient system of free schools, whereby all persons in the State, between the ages of six and twenty-one years, may receive gratuitous instruction.

SEC. 2. No money or property belonging to the public-school fund or to this State, for the benefit of schools or universities, shall ever be used for any other than for the respective purposes to which it belongs.

SEC. 3. The general assembly shall provide by general laws for the support of common schools by taxes, which shall never exceed in any one year two mills on the dollar on the taxable property of the State; and by an annual *per-capita* tax of one dollar, to



be assessed on every male inhabitant of this State over the age of twenty-one years: *Provided*, The general assembly may by general law authorize school-districts to levy, by a vote of the qualified electors of such district, a tax, not to exceed five mills on the dollar in any one year, for school purposes: *Provided further*, That no such tax shall be appropriated to any other purpose, nor to any other district than that for which it was levied.

SEC. 4. The supervision of public schools, and the execution of the laws regulating the same, shall be vested in and confided to such officers as may be provided for by the general assembly.

ARTICLE XV.

IMPEACHMENT AND ADDRESS.

SECTION 1. The governor and all State officers, judges of the supreme and circuit courts, chancellors, and prosecuting attorneys shall be liable to impeachment for high crimes and misdemeanors, and gross misconduct in office; but the judgment shall go no further than removal from office and disqualification to hold any office of honor, trust, or profit under this State. An impeachment, whether successful or not, shall be no bar to an indictment.

SEC. 2. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members thereof. The chief-justice shall preside, unless he is impeached or otherwise disqualified, when the senate shall select a presiding officer.

SEC. 3. The governor, upon the joint address of two-thirds of all the members elected to each house of the general assembly, for good cause, may remove the auditor, treasurer, secretary of state, attorney-general, judges of the supreme and circuit courts, chancellors, and prosecuting attorneys.

ARTICLE XVI.

FINANCE AND TAXATION.

SECTION 1. Neither the State, nor any city, county, town, or other municipality in this State shall ever loan its credit for any purpose whatever; nor shall any county, city, town, or other municipality ever issue any interest-bearing evidences of indebtedness, except such bonds as may be authorized by law to provide for and secure the payment of the present existing indebtedness; and the State shall never issue any interest-bearing treasury warrants or scrip.

SEC. 2. The general assembly shall, from time to time, provide for the payment of all just and legal debts of the State.

SEC. 3. The making of profit out of public moneys, or using the same for any purpose not authorized by law, by any officer of the State, or member or officer of the general assembly, shall be punishable as may be provided by law, but part of such punishment shall be disqualification to hold office in this State for a period of five years.

SEC. 4. The general assembly shall fix the salaries and fees of all officers in the State; and no greater salary or fee than that fixed by law shall be paid to any officer, employé, or other person, or at any rate other than par value; and the number and salaries of the clerks and employés of the different departments of the State shall be fixed by law.

SEC. 5. All property subject to taxation shall be taxed according to its value; that value to be ascertained in such manner as the general assembly shall direct, making the same equal and uniform throughout the State. No one species of property, from which a tax may be collected, shall be taxed higher than another species of property of equal value: *Provided*, The general assembly shall have power, from time to time, to tax hawkers, pedlers, ferries, exhibitions, and privileges in such manner as may be deemed proper: *Provided further*, That the following property shall be exempt from

taxation: public property used exclusively for public purposes, churches used as such, cemeteries used exclusively as such, school buildings and apparatus, libraries and grounds used exclusively for school purposes, and buildings and grounds and materials used exclusively for public charity.

SEC. 6. All laws exempting property from taxation other than as provided in this constitution shall be void.

SEC. 7. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State may be a party.

SEC. 8. The general assembly shall not have power to levy State taxes for any one year to exceed, in the aggregate, 1 per cent. of the assessed valuation of the property of the State for that year.

SEC. 9. No county shall levy a tax to exceed one-half of 1 per cent. for all purposes; but may levy an additional one-half of 1 per cent. to pay indebtedness existing at the time of the ratification of this constitution.

SEC. 10. The taxes of counties, towns, and cities shall only be payable in lawful currency of the United States, or the orders or warrants of said counties, towns, and cities, respectively.

SEC. 11. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same; and no moneys arising from a tax levied for any purpose shall be used for any other purpose.

SEC. 12. No money shall be paid out of the treasury until the same shall have been appropriated by law, and then only in accordance with said appropriation.

SEC. 13. Any citizen of any county, city, or town may institute suit in behalf of himself and all others interested, to protect the inhabitants thereof against the enforcement of any illegal exactions whatever.

ARTICLE XVII.

RAILROADS, CANALS, AND TURNPIKES.

SECTION 1. All railroads, canals, and turnpikes shall be public highways, and all railroad and canal companies shall be common carriers. Any association or corporation, organized for the purpose, shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other road, and shall receive and transport each the other's passengers, tonnage, and cars, loaded or empty, without delay or discrimination.

SEC. 2. Every railroad, canal, or turnpike corporation operated or partly operated in this State, shall maintain one office therein, where transfers of its stock shall be made, and where its books shall be kept for inspection by any stockholder or creditor of such corporation; in which shall be recorded the amount of capital stock subscribed or paid in, and the amounts owned by them, respectively, the transfer of said stock, and the names and the places of residence of the officers.

SEC. 3. All individuals, associations, and corporations shall have equal right to have persons and property transported over railroads, canals, and turnpikes; and no undue or unreasonable discrimination shall be made in charges for or in facilities for transportation of freight or passengers within the State, or coming from or going to any other State. Persons and property transported over any railroad shall be delivered at any station at charges not exceeding the charges for transportation of persons and property of the same class, in the same direction, to any more distant station. But excursion and commutation tickets may be issued at special rates.

SEC. 4. No railroad, canal, or other corporation, or the lessees, purchasers, or managers of any railroad, canal, or corporation shall consolidate the stock, property, or franchises of such corporation with, or lease, or purchase the works or franchises of, or in any way control any other railroad or canal corporation owning or having under its control a parallel or competing line, nor shall any officer of such railroad or canal corporation act as an officer of any other railroad or canal corporation, owning or having control of a parallel or competing line; and the question whether railroads



or canals are parallel or competing lines shall, when demanded by the party complainant, be decided by a jury as in civil issues.

SEC. 5. No president, director, officer, agent, or employé of any railroad or canal company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled, or worked by such company, nor in any arrangement which shall afford more advantageous terms or greater facilities than are offered or accorded to the public; and all contracts and arrangements in violation of this section shall be void.

SEC. 6. No discrimination in charges, or facilities for transportation, shall be made between transportation companies and individuals, or in favor of either by abatement, drawback, or otherwise, and no railroad or canal company, or any lessee, manager, or employé thereof, shall make any preferences in furnishing cars or motive-power.

SEC. 7. The general assembly shall prevent, by law, the granting of free passes by any railroad or transportation company to any officer of this State, legislative, executive, or judicial.

SEC. 8. The general assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend the same, or pass any general or special law for the benefit of such corporation, except on condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

SEC. 9. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the general assembly from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals.

SEC. 10. The general assembly shall pass laws to correct abuses and prevent unjust discrimination and excessive charges by railroad, canal, and turnpike companies, for transporting freight and passengers, and shall provide for enforcing such laws by adequate penalties and forfeitures.

SEC. 11. That rolling-stock and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the general assembly shall pass no law exempting any such property from execution and sale.

SEC. 12. All railroads, which are now or may be hereafter built and operated, either in whole or in part, in this State, shall be responsible for all damages to persons and property, under such regulations as may be prescribed by the general assembly.

SEC. 13. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts, of all their acts and doings, which reports shall include such matters relating to railroads as may be prescribed by law, and the general assembly shall pass laws enforcing, by suitable penalties, the provisions of this section.

ARTICLE XVIII.

JUDICIAL CIRCUITS.

Until otherwise provided by the general assembly, the judicial circuits shall be composed of the following counties:

First—Phillips, Lee, Saint Francis, Prairie, Woodruff, White, and Monroe.

Second—Mississippi, Crittenden, Cross, Poinsett, Craighead, Greene, Clayton, and Randolph.

Third—Jackson, Independence, Lawrence, Sharp, Fulton, Izard, Stone, and Baxter.

Fourth—Marion, Boone, Searcy, Newton, Madison, Carroll, Benton, and Washington.

Fifth—Pope, Johnson, Franklin, Crawford, Sebastian, Sarber, and Yell.

Sixth—Lonoke, Pulaski, Van Buren, and Faulkner.

Seventh—Grant, Hot Spring, Garland, Perry, Saline, and Conway.

Eighth—Scott, Montgomery, Polk, Howard, Sevier, Little River, Pike, and Clark.

Ninth—Hempstead, Lafayette, Nevada, Columbia, Union, Ouachita, and Calhoun.
Tenth—Chicot, Drew, Ashley, Bradley, Dorsey, and Dallas.
Eleventh—Desha, Arkansas, Lincoln, and Jefferson.

Until otherwise provided by the general assembly, the circuit courts shall be begun and held in the several counties as follows:

First circuit.

White—First Monday in February and August.
Woodruff—Third Monday in February and August.
Prairie—Second Monday after the third Monday in February and August.
Monroe—Sixth Monday after the third Monday in February and August.
Saint Francis—Eighth Monday after the third Monday in February and August.
Lee—Tenth Monday after the third Monday in February and August.
Phillips—Twelfth Monday after the third Monday in February and August.

Second circuit.

Mississippi—First Monday in March and September.
Crittenden—Second Monday in March and September.
Cross—Second Monday after the second Monday in March and September.
Poinsett—Third Monday after the second Monday in March and September.
Craighead—Fourth Monday after the second Monday in March and September.
Greene—Sixth Monday after the second Monday in March and September.
Clayton—Seventh Monday after the second Monday in March and September.
Randolph—Ninth Monday after the second Monday in March and September.

Third circuit.

Jackson—First Monday in March and September.
Lawrence—Fourth Monday in March and September.
Sharp—Second Monday after the fourth Monday in March and September.
Fulton—Fourth Monday after the fourth Monday in March and September.
Baxter—Sixth Monday after the fourth Monday in March and September.
Izard—Seventh Monday after the fourth Monday in March and September.
Stone—Ninth Monday after the fourth Monday in March and September.
Independence—Tenth Monday after the fourth Monday in March and September.

Fourth circuit.

Marion—Second Monday in February and August.
Boone—Third Monday in February and August.
Searcy—Second Monday after the third Monday in February and August.
Newton—Third Monday after the third Monday in February and August.
Carroll—Fourth Monday after the third Monday in February and August.
Madison—Fifth Monday after the third Monday in February and August..
Benton—Sixth Monday after the third Monday in February and August.
Washington—Eighth Monday after the third Monday in February and August.

Fifth circuit.

Greenwood district, Sebastian County—Third Monday in February and August.
Fort Smith district, Sebastian County—First Monday after the fourth Monday in February and August.
Crawford County—Fourth Monday after the fourth Monday in February and August.
Franklin County—Sixth Monday after the fourth Monday in February and August.
Sarber County—Eighth Monday after the fourth Monday in February and August.

Yell County—Tenth Monday after the fourth Monday in February and August.
Pope County—Twelfth Monday after the fourth Monday in February and August.
Johnson County—Fourteenth Monday after the fourth Monday in February and August.

Sixth circuit.

In the county of Pulaski, on the first Monday in February, and continue twelve weeks if the business of said court require it.

In the county of Lonoke, on the first Monday succeeding the Pulaski court, and continue two weeks if the business of said court require it.

In the county of Faulkner, on the first Monday after the Lonoke court, and continue two weeks if the business of said court require it.

In the county of Van Buren, on the first Monday after the Faulkner court, and continue two weeks if the business of said court require it.

Fall term, sixth circuit.

In the county of Pulaski, on the first Monday in October, and continue seven weeks if the business of said court require it.

In the county of Lonoke, on the first Monday next after the Pulaski court, and continue two weeks if the business of said court require it.

In the county of Faulkner, on the first Monday after the Lonoke court, and continue one week if the business of said court require it.

In the county of Van Buren, on the first Monday after the Faulkner court, and continue one week if the business of said court require it.

Seventh circuit.

Hot Spring—Second Monday in March and September.
Grant—Third Monday in March and September.
Saline—Fourth Monday in March and September.
Conway—Second Monday after fourth Monday in March and September.
Perry—Fourth Monday after the fourth Monday in March and September.
Garland—Fifth Monday after the fourth Monday in March and September.

Eighth circuit.

Montgomery—First Monday in February and August.
Scott—First Monday after the first Monday in February and August.
Polk—Second Monday after the first Monday in February and August.
Sevier—Third Monday after the first Monday in February and August.
Little River—Fifth Monday after the first Monday in February and August.
Howard—Seventh Monday after the first Monday in February and August.
Pike—Eighth Monday after the first Monday in February and August.
Clark—Ninth Monday after the first Monday in February and August.

Ninth circuit.

Calhoun—First Monday in March and September.
Union—Second Monday after the first Monday in March and September.
Columbia—Fourth Monday after the first Monday in March and September.
Lafayette—Sixth Monday after the first Monday in March and September.
Hempstead—Eighth Monday after the first Monday in March and September.
Nevada—Eleventh Monday after the first Monday in March and September.
Ouachita—Thirteenth Monday after the first Monday in March and September.

Tenth circuit.

Dorsey—Third Monday in February and August.
Dallas—First Monday in March and September.
Bradley—Second Monday in March and September.
Ashley—Third Monday in March and September.
Drew—Second Monday after the third Monday in March and September.
Chicot—Fourth Monday after the third Monday in March and September.

Eleventh circuit.

In the county of Desha on the first Monday in March and September.
In the county of Arkansas on the fourth Monday in March and September.
In the county of Lincoln on the third Monday after the fourth Monday in March and September.
In the county of Jefferson on the sixth Monday after the fourth Monday in March and September.

ARTICLE XIX.

MISCELLANEOUS PROVISIONS.

SECTION 1. No person who denies the being of a God shall hold any office in the civil departments of this State, nor be competent to testify as a witness in any court.

SEC. 2. No person who may hereafter fight a duel, assist in the same as second, or send, accept, or knowingly carry a challenge therefor, shall hold any office in the State for a period of ten years; and may be otherwise punished as the law may prescribe.

SEC. 3. No person shall be elected to or appointed to fill a vacancy in any office who does not possess the qualifications of an elector.

SEC. 4. All civil officers for the State at large shall reside within the State, and all district, county, and township officers within their respective districts, counties, and townships, and shall keep their offices at such places therein as are now, or may hereafter be, required by law.

SEC. 5. All officers shall continue in office after the expiration of their official terms until their successors are elected and qualified.

SEC. 6. No person shall hold or perform the duties of more than one office in the same department of the government at the same time, except as expressly directed or permitted by this constitution.

SEC. 7. Absence on business of the State, or of the United States, or on a visit, or on necessary private business, shall not cause a forfeiture of residence once obtained.

SEC. 8. It shall be the duty of the general assembly to regulate by law in what cases and what deductions from the salaries of public officers shall be made for neglect of duty in their official capacity.

SEC. 9. The general assembly shall have no power to create any permanent State office not expressly provided for by this constitution.

SEC. 10. Returns for all elections for officers who are to be commissioned by the governor, and for members of the general assembly, except as otherwise provided by this constitution, shall be made to the secretary of state.

SEC. 11. The governor, secretary of state, auditor, treasurer, attorney-general, judges of the supreme court, judges of the circuit court, commissioner of State lands, and prosecuting attorneys shall each receive a salary to be established by law, which shall not be increased or diminished during their respective terms, nor shall any of them, except the prosecuting attorneys, after the adoption of this constitution, receive to his own use any fees, costs, perquisites of office, or other compensation; and all fees that may hereafter be payable by law, for any service performed by any officer mentioned in this section, except prosecuting attorneys, shall be paid in advance into the State treasury: *Provided*, That the salaries of the respective officers herein men-

tioned shall never exceed per annum, for governor, the sum of $4,000; for secretary of state, the sum of $2,500; for treasurer of state, the sum of $3,000; for auditor of state, the sum of $3,000; for attorney-general, the sum of $2,500; for commissioner of State lands, the sum of $2,500; for judges of the supreme court, each, the sum of $4,000; for judges of the circuit courts and chancellors, each, the sum of $3,000; for prosecuting attorneys, the sum of $400: *And provided further*, That the general assembly shall provide for no increase of salaries of its members which shall take effect before the meeting of the next general assembly.

SEC. 12. An accurate and detailed statement of the receipts and expenditures of the public money, the several amounts paid, to whom and on what account, shall, from time to time, be published as may be prescribed by law.

SEC. 13. All contracts for a greater rate of interest than 10 per centum per annum shall be void as to principal and interest, and the general assembly shall prohibit the same by law; but when no rate of interest is agreed upon, the rate shall be 6 per centum per annum.

SEC. 14. No lottery shall be authorized by this State, nor shall the sale of lottery-tickets be allowed.

SEC. 15. All stationery, printing, paper, fuel, for the use of the general assembly and other departments of government, shall be furnished, and the printing, binding, and distributing of the laws, journals, department reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the general assembly and its committees, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price and under such regulations as shall be prescribed by law. No member or officer of any department of the government shall in any way be interested in such contracts, and all such contracts shall be subject to the approval of the governor, auditor, and treasurer.

SEC. 16. All contracts for erecting or repairing public buildings or bridges in any county, or for materials therefor, or for providing for the care and keeping of paupers, where there are no almshouses, shall be given to the lowest responsible bidder, under such regulations as may be provided by law.

SEC. 17. The laws of this State, civil and criminal, shall be revised, digested, arranged, published, and promulgated at such times and in such manner as the general assembly may direct.

SEC. 18. The general assembly, by suitable enactments, shall require such appliances and means to be provided and used as may be necessary to secure, as far as possible, the lives, health, and safety of persons employed in mining and of persons travelling upon railroads and by other public conveyances, and shall provide for enforcing such enactments by adequate pains and penalties.

SEC. 19. It shall be the duty of the general assembly to provide by law for the support of institutions for the education of the deaf and dumb and of the blind, and also for the treatment of the insane.

SEC. 20. Senators and representatives, and all judicial and executive, State and county officers, and all other officers, both civil and military, before entering on the duties of their respective offices, shall take and subscribe to the following oath or affirmation: "I, ——— ———, do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of the State of Arkansas, and that I will faithfully discharge the duties of the office of ——, upon which I am now about to enter."

SEC. 21. The sureties upon the official bonds of all State officers shall be residents of and have sufficient property within the State, not exempt from sale under execution, attachment, or other process of any court, to make good their bonds; and the sureties upon the official bonds of all county officers shall reside within the counties where such officers reside, and shall have sufficient property therein, not exempt from such sale, to make good their bonds.

SEC. 22. Either branch of the general assembly, at a regular session thereof, may propose amendments to this constitution, and if the same be agreed to by a majority of all the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and published in at least one newspaper in

each county, where a newspaper is published, for six months immediately preceding the next general election for senators and representatives, at which time the same shall be submitted to the electors of the State for approval or rejection, and if a majority of the electors voting at such election adopt such amendments the same shall become a part of this constitution. But no more than three amendments shall be proposed or submitted at the same time. They shall be so submitted as to enable the electors to vote on each amendment separately.

SEC. 23. No officer of this State, nor of any county, city, or town, shall receive, directly or indirectly, for salary, fees, and perquisites, more than five thousand dollars net profit per annum in par funds, and any and all sums in excess of this amount shall be paid into the State, county, city, or town treasury, as shall hereafter be directed by appropriate legislation.

SEC. 24. The general assembly shall provide by law the mode of contesting elections in cases not specifically provided for in this constitution.

SEC. 25. The present seal of the State shall be and remain the seal of the State of Arkansas until otherwise provided by law, and shall be kept and used as provided in this constitution.

SEC. 26. Militia officers, and officers of the public schools, and notaries may be elected to fill any executive or judicial office.

SEC. 27. Nothing in this constitution shall be so construed as to prohibit the general assembly from authorizing assessments on real property for local improvement, in towns and cities, under such regulations as may be prescribed by law; to be based upon the consent of the majority in value of the property-holders owning property adjoining the locality to be affected; but such assessments shall be *ad valorem* and uniform.

SCHEDULE.

SECTION 1. All laws now in force, which are not in conflict or inconsistent with this constitution, shall continue in force until amended or repealed by the general assembly, and all laws exempting property from sale on execution, or by decree of a court, which were in force at the time of the adoption of the constitution of 1868, shall remain in force with regard to contracts made before that time. Until otherwise provided by law, no distinction shall exist between sealed and unsealed instruments, concerning contracts between individuals, executed since the adoption of the constitution of 1868: *Provided*, That the statutes of limitation with regard to sealed and unsealed instruments, in force at that time, continue to apply to all instruments afterwards executed, until altered or repealed.

SEC. 2. In civil actions no witness shall be excluded because he is a party to the suit, or interested in the issue to be tried: *Provided*, That in actions by or against executors, administrators, or guardians, in which judgment may be rendered for or against them, neither party shall be allowed to testify against the other as to any transactions with or statements of the testator, intestate, or ward, unless called to testify thereto by the opposite party: *Provided, further*, That this section may be amended or repealed by the general assembly.

SEC. 3. An election shall be held at the several election precincts of every county in the State, on Tuesday, the thirteenth day of October, 1874, for governor, secretary of state, auditor, treasurer, attorney-general, commissioner of State lands, (for two years, unless the office is sooner abolished by the general assembly,) chancellor and clerk of the separate chancery court of Pulaski County, chief-justice, and two associate justices of the supreme court, a circuit judge and prosecuting attorney for each judicial circuit provided for in this constitution, senators and representatives to the general assembly, all county and township officers provided for in this constitution; and also for the submission of this constitution to the qualified electors of the State, for its adoption or rejection.

SEC. 4. The qualification of voters at the election, to be held as provided in this schedule, shall be the same as is now prescribed by law.

SEC. 5. The State board of supervisors hereinafter mentioned shall give notice of

said election immediately after the adoption of this constitution by this convention, by proclamation in at least two newspapers published at Little Rock and such other newspapers as they may select. And each county board of supervisors shall give public notice, in their respective counties, of said election, immediately after their appointment.

SEC. 6. The governor shall also issue a proclamation enjoining upon all peace-officers the duty of preserving good order on the day of said election, and preventing any disturbance of the same.

SEC. 7. Augustus H. Garland, Gordon N. Peay, and Dudley E. Jones are hereby constituted a State board of supervisors of said election, who shall take an oath faithfully and impartially to discharge the duties of their office; a majority of whom shall be a quorum, and who shall perform the duties herein assigned them. Should a vacancy occur in said board, by refusal to serve, death, removal, resignation, or otherwise; or if any member should become incapacitated from performing said duties, the remaining members of the board shall fill the vacancy by appointment. But if all the places on said board become vacant at the same time, the said vacancies shall be filled by the president of this convention.

SEC. 8. Said State board shall at once proceed to appoint a board of election-supervisors for each county of this State, consisting of three men of known intelligence and uprightness of character, who shall take the same oath as above provided for the State board. A majority of each board shall constitute a quorum, and shall perform the duties herein assigned to them; and vacancies occurring in the county boards shall be filled by the State board.

SEC. 9. The State board shall provide the form of poll-books, and each county board shall furnish the judges of each election precinct with three copies of the poll-books in the form prescribed, and with ballot-boxes, at the expense of the county.

SEC. 10. The State board of supervisors shall cause to be furnished in pamphlet form a sufficient number of copies of this constitution to supply each county supervisor and judge of election with a copy, and shall forward the same to the county election boards for distribution.

SEC. 11. The boards of county election supervisors shall at once proceed to appoint three judges of election for each election precinct in their respective counties; and the judges shall appoint three election-clerks for their respective precincts, all of whom shall be good, competent men, and take an oath as prescribed above. Should the judges of any election precinct fail to attend at the time and place provided by law, or decline to act, the assembled electors shall choose competent persons, in the manner provided by law, to act in their place, who shall be sworn as above.

SEC. 12. Said election shall be conducted in accordance with existing laws, except as herein provided. As the electors present themselves at the polls to vote, the judges of the election shall pass upon their qualifications, and the clerks of the election shall register their names on the poll-books if qualified; and such registration by said clerks shall be a sufficient registration in conformity with the constitution of this State, and then their votes shall be taken.

SEC. 13. Each elector shall have written or printed on his ticket "For constitution," or "Against constitution," and also the offices and the names of the candidates for the offices for whom he desires to vote.

SEC. 14. The judges shall deposit the tickets in the ballot-box; but no elector shall vote outside of the township or ward in which he resides. The names of the electors shall be numbered, and the corresponding numbers shall be placed on the ballots by the judges when deposited.

SEC. 15. All dram-shops and drinking-houses in this State shall be closed during the day of said election, and the succeeding night; and any person selling or giving away intoxicating liquors during said day or night shall be punished by fine, not less than two hundred dollars, for each and every offence, or imprisoned not less than six months, or both.

SEC. 16. The polls shall be opened at eight o'clock in the forenoon, and shall be kept open until sunset. After the polls are closed the ballots shall be counted by the judges at the place of voting, as soon as the polls are closed, unless prevented by

violence or accident; and the results by them certified on the poll-books, and the ballots sealed up. They shall be returned to the county board of election supervisors, who shall proceed to cast up the votes and ascertain and state the number of votes cast for the constitution, and the number cast against the constitution, and also the number of votes cast for each candidate voted for for any office, and shall forthwith forward to the State board of supervisors, duly certified by them, one copy of the statement or abstracts of the votes so made out by them, retain one copy in their possession, and file one copy in the office of the county clerk, where they shall also deposit, for safe-keeping, the ballots, sealed up, and one copy of the poll-books, retaining possession of the other copies.

SEC. 17. The State board of supervisors shall at once proceed, on receiving such returns from the county boards, to ascertain therefrom and state the whole number of votes given for the constitution, and the whole number given against it; and if a majority of all votes cast be in favor of the constitution, they shall at once make public that fact by publication in two or more of the leading newspapers published in the city of Little Rock, and this constitution, from that date, shall be in force; and they shall also make out and file, in the office of the secretary of state, an abstract of all the votes cast for the constitution, and all the votes cast against it; and also an abstract of all votes cast for every candidate voted for at the election, and file the same in the office of the secretary of state, showing the candidates elected. They shall also make out and certify, and lay before each house of the general assembly, a list of the members elected to that house; and shall also make out, certify, and deliver to the speaker of the house of representatives an abstract of all votes cast at the election for any and all persons for the office of governor, secretary of state, treasurer of state, auditor of state, attorney-general, and commissioner of State lands, and the said speaker shall cast up the votes, and announce the names of the persons elected to these offices. The governor, secretary of state, treasurer of state, auditor of state, attorney-general, and commissioner of State lands chosen at said election shall qualify and enter upon the discharge of the duties of their respective offices within fifteen days after the announcement of their election as aforesaid.

SEC. 18. All officers shown to be elected by the abstract of said election, filed by the State board of supervisors in the office of the secretary of state, required by this constitution to be commissioned, shall be commissioned by the governor.

SEC. 19. At said election the qualified voters of each county and senatorial district, as defined in article eight of this constitution, shall elect, respectively, representatives and senators according to the numbers and apportionment contained in said article. The board of election supervisors of each county shall furnish certificates of election to the person or persons elected to the house of representatives as soon as practicable after the result of the election has been ascertained; and such board of election supervisors in each county shall make a correct return of the election for senator or senators to the board of election supervisors of the county first named in the senatorial apportionment, and said board shall furnish certificates of election to the person or persons elected as senator or senators in said senatorial district as soon as practicable.

SEC. 20. All officers elected under this constitution, except the governor, secretary of state, auditor of state, treasurer, attorney-general, and commissioner of State lands, shall enter upon the duties of their several offices when they shall have been declared duly elected by said State board ofsupervisors, and shall have duly qualified. All such officers shall qualify and enter upon the duties of their offices within fifteen days after they have been duly notified of their election.

SEC. 21. Upon the qualification of the officers elected at said election, the present incumbents of the offices for which the election is held shall vacate the same and turn over to the officers thus elected and qualified all books, papers, records, moneys, and documents belonging or pertaining to said offices by them respectively held.

SEC. 22. The first session of the general assembly under this constitution shall commence on the first Tuesday after the second Monday in November, 1874.

SEC. 23. The county courts provided for in this constitution shall be regarded in law as a continuation of the boards of supervisors now existing by law, and the cir-

cuit courts shall be regarded in law as continuations of the criminal courts wherever the same may have existed in their respective counties; and the probate courts shall be regarded as continuations of the circuit courts for the business within the jurisdiction of such probate courts, and the papers and records pertaining to said courts and jurisdictions shall be transferred accordingly; and no suit or prosecution of any kind shall abate because of any change made in this constitution.

SEC. 24. All officers now in office, whose offices are not abolished by this convention, shall continue in office and discharge the duties imposed on them by law until their successors are elected and qualified under this constitution. The office of commissioner of State lands shall be continued: *Provided*, That the general assembly at its next session may abolish or continue the same in such manner as may be prescribed by law.

SEC. 25. Any election officer, appointed under the provisions of this schedule, who shall fraudulently and corruptly permit any person to vote illegally, or refuse the vote of any qualified elector, cast up or make a false return of said election, shall be deemed guilty of a felony, and on conviction thereof shall be imprisoned in the penitentiary not less than five years nor more than ten years. And any person who shall vote when not a qualified elector, or vote more than once, or bribe any one to vote contrary to his wishes, or intimidate or prevent any elector by threats, menace, or promises from voting, shall be guilty of a felony, and upon conviction thereof shall be imprisoned in the penitentiary not less than one nor more than five years.

SEC. 26. All officers elected at the election provided for in this schedule shall hold their offices for the respective periods provided for in the foregoing constitution, and until their successors are elected and qualified. The first general elections after the ratification of this constitution shall be held on the first Monday of September, A. D. 1876. Nothing in this constitution and the schedule thereto shall be so construed as to prevent the election of Congressmen at the time as now prescribed by law.

SEC. 27. The sum of five thousand dollars is hereby appropriated, out of any money in the treasury not otherwise appropriated, to defray the expenses of the election provided for in this schedule, and the auditor of state shall draw his warrants on the treasurer for such expenses, not exceeding said amount, on the certificate of the State board of supervisors of election.

SEC. 28. For the period of two years from the adoption of this constitution, and until otherwise provided by law, the respective officers herein enumerated shall receive for their services the following salaries per annum:

For governor, the sum of $3,500; for secretary of state, the sum of $2,000; for treasurer, the sum of $2,500; for auditor, the sum of $2,500; for attorney-general, the sum of $2,000; for commissioner of State lands, the sum of $2,000; for judges of supreme court, each the sum of $3,500; for judges of circuit and chancery courts, each the sum of $2,500; for prosecuting attorneys, each the sum of $400; for members of the general assembly, the sum of $6 per day, and 20 cents per mile for each mile travelled in going to and returning from the seat of government, over the most direct and practicable route.

G. D. ROYSTON, *President.*

Attest:

THOS. W. NEWTON, *Secretary.*

CALIFORNIA.

THE TREATY OF GUADALUPE HIDALGO—1848.*

Concluded February 2, 1848; *Ratifications exchanged at Queretaro, May* 30, 1848; *Proclaimed July* 4, 1848.

In the name of Almighty God:

The United States of America and the United Mexican States, animated by a sincere desire to put an end to the calamities of the war which unhappily exists between the two Republics, and to establish upon a solid basis relations of peace and friendship, which shall confer reciprocal benefits upon the citizens of both, and assure the concord, harmony, and mutual confidence wherein the two people should live, as good neighbours, have for that purpose appointed their respective plenipotentiaries, that is to say:

The President of the United States has appointed Nicholas P. Trist, a citizen of the United States, and the President of the Mexican Republic has appointed Don Luis Gonzaga Cuevas, Don Bernardo Couto, and Don Miguel Atristain, citizens of the said Republic;

Who, after a reciprocal communication of their respective full powers, have, under the protection of Almighty God, the author of peace, arranged, agreed upon, and signed the following

Treaty of Peace, Friendship, Limits, and Settlement between the United States of America and the Mexican Republic.

Article I.

There shall be firm and universal peace between the United States of America and the Mexican Republic, and between their respective countries, territories, cities, towns, and people, without exception of places or persons.

Article II.

Immediately upon the signature of this treaty, a convention shall be entered into between a commissioner or commissioners appointed by the General-in-chief of the forces of the United States, and such as may be appointed by the Mexican Government, to the end that a provisional suspension of hostilities shall take place, and that, in the places occupied by the said forces, constitutional order may be re-established, as regards the political, administrative, and judicial branches, so far as this shall be permitted by the circumstances of military occupation.

Article III.

Immediately upon the ratification of the present treaty by the Government of the United States, orders shall be transmitted to the commanders of their land and naval forces, requiring the latter (provided this treaty shall then have been ratified by the Government of the Mexican Republic, and the ratifications exchanged) immediately to

* California was first discovered by the Spaniards, in 1542, and they began to establish missions there in 1769. After the Mexican revolution, in 1824 it formed a province of that republic, until 1846, when the inhabitants and emigrants from the United States established an independent government. The treaty of Guadalupe Hidalgo brought it within the limits of the United States, and it was then governed by the commanding officer of the military force stationed there, acting as provisional governor.

desist from blockading any Mexican ports; and requiring the former (under the same condition) to commence, at the earliest moment practicable, withdrawing all troops of the United States then in the interior of the Mexican Republic, to points that shall be selected by common agreement, at a distance from the sea-ports not exceeding thirty leagues; and such evacuation of the interior of the Republic shall be completed with the least possible delay; the Mexican Government hereby binding itself to afford every facility in its power for rendering the same convenient to the troops, on their march and in their new positions, and for promoting a good understanding between them and the inhabitants. In like manner orders shall be despatched to the persons in charge of the custom-houses at all ports occupied by the forces of the United States, requiring them (under the same condition) immediately to deliver possession of the same to the persons authorized by the Mexican Government to receive it, together with all bonds and evidences of debt for duties on importations and on exportations, not yet fallen due. Moreover, a faithful and exact account shall be made out, showing the entire amount of all duties on imports and on exports, collected at such custom-houses, or elsewhere in Mexico, by authority of the United States, from and after the day of ratification of this treaty by the Government of the Mexican Republic; and also an account of the cost of collection; and such entire amount, deducting only the cost of collection, shall be delivered to the Mexican Government, at the city of Mexico, within three months after the exchange of ratifications.

The evacuation of the capital of the Mexican Republic by the troops of the United States, in virtue of the above stipulation, shall be completed in one month after the orders there stipulated for shall have been received by the commander of said troops, or sooner if possible.

Article IV.

Immediately after the exchange of ratifications of the present treaty all castles, forts, territories, places, and possessions, which have been taken or occupied by the forces of the United States during the present war, within the limits of the Mexican Republic, as about to be established by the following article, shall be definitively restored to the said Republic, together with all the artillery, arms, apparatus of war, munitions, and other public property, which were in the said castles and forts when captured, and which shall remain there at the time when this treaty shall be duly ratified by the Government of the Mexican Republic. To this end, immediately upon the signature of this treaty, orders shall be despatched to the American officers commanding such castles and forts, securing against the removal or destruction of any such artillery, arms, apparatus of war, munitions, or other public property. The city of Mexico, within the inner line of intrenchments surrounding the said city, is comprehended in the above stipulation, as regards the restoration of artillery, apparatus of war, &c.

The final evacuation of the territory of the Mexican Republic, by the forces of the United States, shall be completed in three months from the said exchange of ratifications, or sooner if possible; the Mexican Government hereby engaging, as in the foregoing article, to use all means in its power for facilitating such evacuation, and rendering it convenient to the troops, and for promoting a good understanding between them and the inhabitants.

If, however, the ratification of this treaty by both parties should not take place in time to allow the embarcation of the troops of the United States to be completed before the commencement of the sickly season, at the Mexican ports on the Gulf of Mexico, in such case a friendly arrangement shall be entered into between the General-in-chief of the said troops and the Mexican Government, whereby healthy and otherwise suitable places, at a distance from the ports not exceeding thirty leagues, shall be designated for the residence of such troops as may not yet have embarked, until the return of the healthy season. And the space of time here referred to as comprehending the sickly season shall be understood to extend from the first day of May to the first day of November.

All prisoners of war taken on either side, on land or on sea, shall be restored as soon as practicable after the exchange of ratifications of this treaty. It is also agreed that if any Mexicans should now be held as captives by any savage tribe within the limits of the United States, as about to be established by the following article, the Government of the said United States will exact the release of such captives, and cause them to be restored to their country.

Article V.

The boundary-line between the two republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, otherwise called the Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea; from thence up the middle of that river, following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico; thence westwardly along the whole southern boundary of New Mexico (which runs north of the town called Paso) to its western termination; thence northward along the western line of New Mexico until it intersects the first branch of the river Gila, (or if it should not intersect any branch of that river, then to the point on the said line nearest to such branch, and thence in a direct line to the same;) thence down the middle of the said branch and of the said river, until it empties into the Rio Colorado; thence across the Rio Colorado, following the division-line between Upper and Lower California, to the Pacific Ocean.

The southern and western limits of New Mexico, mentioned in this article, are those laid down in the map entitled "*Map of the United Mexican States, as organized and defined by various acts of the Congress of said republic, and constructed according to the best authorities. Revised edition. Published at New York in* 1847, *by J. Disturnell;*" of which map a copy is added to this treaty, bearing the signatures and seals of the undersigned Plenipotentiaries. And, in order to preclude all difficulty in tracing upon the ground the limit separating Upper from Lower California, it is agreed that the said limit shall consist of a straight line drawn from the middle of the Rio Gila, where it unites with the Colorado, to a point on the coast of the Pacific Ocean, distant one marine league due south of the southernmost point of the port of San Diego, according to the plan of said port made in the year 1782 by Don Juan Pantoja, second sailing-master of the Spanish fleet, and published at Madrid in the year 1802, in the atlas to the voyage of the schooners Sutil and Mexicana; of which plan a copy is hereunto added, signed, and sealed by the respective Plenipotentiaries.

In order to designate the boundary line with due precision, upon authoritative maps, and to establish upon the ground land-marks which shall show the limits of both republics, as described in the present article, the two Governments shall each appoint a commissioner and a surveyor, who, before the expiration of one year from the date of the exchange of ratifications of this treaty, shall meet at the port of San Diego, and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte. They shall keep journals and make out plans of their operations; and the result agreed upon by them shall be deemed a part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree regarding what may be necessary to these persons, and also as to their respective escorts, should such be necessary.

The boundary-line established by this article shall be religiously respected by each of the two republics, and no change shall ever be made therein, except by the express and free consent of both nations, lawfully given by the General Government of each, in conformity with its own constitution.

Article VI.

The vessels and citizens of the United States shall, in all time, have a free and uninterrupted passage by the Gulf of California, and by the river Colorado below its confluence with the Gila, to and from their possessions situated north of the boundary line defined in the preceding article; it being understood that this passage is to be by

navigating the Gulf of California and the river Colorado, and not by land, without the express consent of the Mexican Government.

If, by the examinations which may be made, it should be ascertained to be practicable and advantageous to construct a road, canal, or railway, which should in whole or in part run upon the river Gila, or upon its right or its left bank, within the space of one marine league from either margin of the river, the Governments of both republics will form an agreement regarding its construction, in order that it may serve equally for the use and advantage of both countries.

Article VII.

The river Gila, and the part of the Rio Bravo del Norte lying below the southern boundary of New Mexico, being, agreeably to the fifth article, divided in the middle between the two republics, the navigation of the Gila and of the Bravo below said boundary shall be free and common to the vessels and citizens of both countries; and neither shall, without the consent of the other, construct any work that may impede or interrupt, in whole or in part, the exercise of this right; not even for the purpose of favouring new methods of navigation. Nor shall any tax or contribution, under any denomination or title, be levied upon vessels or persons navigating the same, or upon merchandise or effects transported thereon, except in the case of landing upon one of their shores. If, for the purpose of making the said rivers navigable, or for maintaining them in such state, it should be necessary or advantageous to establish any tax or contribution, this shall not be done without the consent of both Governments.

The stipulations contained in the present article shall not impair the territorial rights of either republic within its established limits.

Article VIII.

Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican Republic, retaining the property which they possess in the said territories, or disposing thereof, and removing the proceeds wherever they please, without their being subjected, on this account, to any contribution, tax, or charge whatever.

Those who shall prefer to remain in the said territories may either retain the title and rights of Mexican citizens, or acquire those of citizens of the United States. But they shall be under the obligation to make their election within one year from the date of the exchange of ratifications of this treaty; and those who shall remain in the said territories after the expiration of that year, without having declared their intention to retain the character of Mexicans, shall be considered to have elected to become citizens of the United States.

In the said territories, property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to it guarantees equally ample as if the same belonged to citizens of the United States.

Article IX.

The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution; and in the mean time shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction.

ARTICLE X.

[Stricken out.]

ARTICLE XI.

Considering that a great part of the territories, which, by the present treaty, are to be comprehended for the future within the limits of the United States, is now occupied by savage tribes, who will hereafter be under the exclusive controul of the Government of the United States, and whose incursions within the territory of Mexico would be prejudicial in the extreme, it is solemnly agreed that all such incursions shall be forcibly restrained by the Government of the United States whensoever this may be necessary; and that when they cannot be prevented, they shall be punished by the said government, and satisfaction for the same shall be exacted—all in the same way, and with equal diligence and energy, as if the same incursions were meditated or committed within its own territory, against its own citizens.

It shall not be lawful, under any pretext whatever, for any inhabitant of the United States to purchase or acquire any Mexican, or any foreigner residing in Mexico, who may have been captured by Indians inhabiting the territory of either of the two republics; nor to purchase or acquire horses, mules, cattle, or property of any kind, stolen within Mexican territory by such Indians.

And in the event of any person or persons, captured within Mexican territory by Indians, being carried into the territory of the United States, the Government of the latter engages and binds itself, in the most solemn manner, so soon as it shall know of such captives being within its territory, and shall be able so to do, through the faithful exercise of its influence and power, to rescue them and return them to their country, or deliver them to the agent or representative of the Mexican Government. The Mexican authorities will, as far as practicable, give to the Government of the United States notice of such captures; and its agents shall pay the expenses incurred in the maintenance and transmission of the rescued captives; who, in the mean time, shall be treated with the utmost hospitality by the American authorities at the place where they may be. But if the Government of the United States, before receiving such notice from Mexico, should obtain intelligence, through any other channel, of the existence of Mexican captives within its territory, it will proceed forthwith to effect their release and delivery to the Mexican agent, as above stipulated.

For the purpose of giving to these stipulations the fullest possible efficacy, thereby affording the security and redress demanded by their true spirit and intent, the Government of the United States will now and hereafter pass, without unnecessary delay, and always vigilantly enforce, such laws as the nature of the subject may require. And, finally, the sacredness of this obligation shall never be lost sight of by the said Government, when providing for the removal of the Indians from any portion of the said territories, or for its being settled by citizens of the United States; but, on the contrary, special care shall then be taken not to place its Indian occupants under the necessity of seeking new homes, by committing those invasions which the United States have solemnly obliged themselves to restrain.

ARTICLE XII.

In consideration of the extension acquired by the boundaries of the United States, as defined in the fifth article of the present treaty, the Government of the United States engages to pay to that of the Mexican Republic the sum of fifteen millions of dollars.

Immediately after this treaty shall have been duly ratified by the Government of the Mexican Republic, the sum of three millions of dollars shall be paid to the said government by that of the United States, at the city of Mexico, in the gold or silver coin of Mexico. The remaining twelve millions of dollars shall be paid at the same place, and in the same coin, in annual instalments of three millions of dollars each, together with interest on the same at the rate of six per centum per annum. This interest shall begin to run upon the whole sum of twelve millions from the day of the

ratification of the present treaty by the Mexican Government, and the first of the instalments shall be paid at the expiration of one year from the same day. Together with each annual instalment, as it falls due, the whole interest accruing on such instalment from the beginning shall also be paid.

ARTICLE XIII.

The United States engage, moreover, to assume and pay to the claimants all the amounts now due them, and those hereafter to become due, by reason of the claims already liquidated and decided against the Mexican Republic, under the conventions between the two republics severally concluded on the eleventh day of April, eighteen hundred and thirty-nine, and on the thirtieth day of January, eighteen hundred and forty-three; so that the Mexican Republic shall be absolutely exempt, for the future, from all expense whatever on account of the said claims.

ARTICLE XIV.

The United States do furthermore discharge the Mexican Republic from all claims of citizens of the United States, not heretofore decided against the Mexican Government, which may have arisen previously to the date of the signature of this treaty; which discharge shall be final and perpetual, whether the said claims be rejected or be allowed by the board of commissioners provided for in the following article, and whatever shall be the total amount of those allowed.

ARTICLE XV.

The United States, exonerating Mexico from all demands on account of the claims of their citizens mentioned in the preceding article, and considering them entirely and forever cancelled, whatever their amount may be, undertake to make satisfaction for the same, to an amount not exceeding three and one-quarter millions of dollars. To ascertain the validity and amount of those claims, a board of commissioners shall be established by the Government of the United States, whose awards shall be final and conclusive; provided that, in deciding upon the validity of each claim, the board shall be guided and governed by the principles and rules of decision prescribed by the first and fifth articles of the unratified convention, concluded at the city of Mexico on the twentieth day of November, one thousand eight hundred and forty-three; and in no case shall an award be made in favour of any claim not embraced by these principles and rules.

If, in the opinion of the said board of commissioners or of the claimants, any books, records, or documents, in the possession or power of the Government of the Mexican Republic, shall be deemed necessary to the just decision of any claim, the commissioners, or the claimants through them, shall, within such period as Congress may designate, make an application in writing for the same, addressed to the Mexican Minister for Foreign Affairs, to be transmitted by the Secretary of State of the United States; and the Mexican Government engages, at the earliest possible moment after the receipt of such demand, to cause any of the books, records, or documents so specified, which shall be in their possession or power, (or authenticated copies or extracts of the same,) to be transmitted to the said Secretary of State, who shall immediately deliver them over to the said board of commissioners; provided that no such application shall be made by or at the instance of any claimant, until the facts which it is expected to prove by such books, records, or documents, shall have been stated under oath or affirmation.

ARTICLE XVI.

Each of the contracting parties reserves to itself the entire right to fortify whatever point within its territory it may judge proper so to fortify for its security.

Article XVII.

The treaty of amity, commerce, and navigation, concluded at the city of Mexico on the fifth day of April, A. D. 1831, between the United States of America and the United Mexican States, except the additional article, and except so far as the stipulations of the said treaty may be incompatible with any stipulation contained in the present treaty, is hereby revived for the period of eight years from the day of the exchange of ratifications of this treaty, with the same force and virtue as if incorporated therein; it being understood that each of the contracting parties reserves to itself the right, at any time after the said period of eight years shall have expired, to terminate the same by giving one year's notice of such intention to the other party.

Article XVIII.

All supplies whatever for troops of the United States in Mexico, arriving at ports in the occupation of such troops previous to the final evacuation thereof, although subsequently to the restoration of the custom-houses at such ports, shall be entirely exempt from duties and charges of any kind; the Government of the United States hereby engaging and pledging its faith to establish, and vigilantly to enforce, all possible guards for securing the revenue of Mexico, by preventing the importation, under cover of this stipulation, of any articles other than such, both in kind and in quantity, as shall really be wanted for the use and consumption of the forces of the United States during the time they may remain in Mexico. To this end it shall be the duty of all officers and agents of the United States to denounce to the Mexican authorities at the respective ports any attempts at a fraudulent abuse of this stipulation, which they may know of, or may have reason to suspect, and to give to such authorities all the aid in their power with regard thereto; and every such attempt, when duly proved and established by sentence of a competent tribunal, shall be punished by the confiscation of the property so attempted to be fraudulently introduced.

Article XIX.

With respect to all merchandise, effects, and property whatsoever, imported into ports of Mexico whilst in the occupation of the forces of the United States, whether by citizens of either republic, or by citizens or subjects of any neutral nation, the following rules shall be observed:

1. All such merchandise, effects, and property, if imported previously to the restoration of the custom-houses to the Mexican authorities, as stipulated for in the third article of this treaty, shall be exempt from confiscation, although the importation of the same be prohibited by the Mexican tariff.

2. The same perfect exemption shall be enjoyed by all such merchandise, effects, and property, imported subsequently to the restoration of the custom-houses, and previously to the sixty days fixed in the following article for the coming into force of the Mexican tariff at such ports respectively; the said merchandise, effects, and property being, however, at the time of their importation, subject to the payment of duties, as provided for in the said following article.

3. All merchandise, effects, and property described in the two rules foregoing shall, during their continuance at the place of importation, and upon their leaving such place for the interior, be exempt from all duty, tax, or impost of every kind, under whatsoever title or denomination. Nor shall they be there subjected to any charge whatsoever upon the sale thereof.

4. All merchandise, effects, and property, described in the first and second rules, which shall have been removed to any place in the interior whilst such place was in the occupation of the forces of the United States, shall, during their continuance therein, be exempt from all tax upon the sale or consumption thereof, and from every kind of impost or contribution, under whatsoever title or denomination.

5. But if any merchandise, effects, or property, described in the first and second rules, shall be removed to any place not occupied at the time by the forces of the

United States, they shall, upon their introduction into such place, or upon their sale or consumption there, be subject to the same duties which, under the Mexican laws, they would be required to pay in such cases if they had been imported in time of peace, through the maritime custom-houses, and had there paid the duties conformably with the Mexican tariff.

6. The owners of all merchandise, effects, or property, described in the first and second rules, and existing in any port of Mexico, shall have the right to reship the same, exempt from all tax, impost, or contribution whatever.

With respect to the metals, or other property, exported from any Mexican port whilst in the occupation of the forces of the United States, and previously to the restoration of the custom-house at such port, no person shall be required by the Mexican authorities, whether general or state, to pay any tax, duty, or contribution upon any such exportation, or in any manner to account for the same to the said authorities.

Article XX.

Through consideration for the interests of commerce generally, it is agreed, that if less than sixty days should elapse between the date of the signature of this treaty and the restoration of the custom-houses, conformably with the stipulation in the third article, in such case all merchandise, effects, and property whatsoever, arriving at the Mexican ports after the restoration of the said custom-houses, and previously to the expiration of sixty days after the day of the signature of this treaty, shall be admitted to entry; and no other duties shall be levied thereon than the duties established by the tariff found in force at such custom-houses at the time of the restoration of the same. And to all such merchandise, effects, and property, the rules established by the preceding article shall apply.

Article XXI.

If unhappily any disagreement should hereafter arise between the Governments of the two republics, whether with respect to the interpretation of any stipulation in this treaty, or with respect to any other particular concerning the political or commercial relations of the two nations, the said Governments, in the name of those nations, do promise to each other that they will endeavor, in the most sincere and earnest manner, to settle the differences so arising, and to preserve the state of peace and friendship in which the two countries are now placing themselves, using, for this end, mutual representations, and pacific negotiations. And if, by these means, they should not be enabled to come to an agreement, a resort shall not, on this account, be had to reprisals, aggression, or hostility of any kind, by the one republic against the other, until the Government of that which deems itself aggrieved shall have maturely considered, in the spirit of peace and good neighborship, whether it would not be better that such difference should be settled by the arbitration of commissioners appointed on each side, or by that of a friendly nation. And should such course be proposed by either party, it shall be acceded to by the other, unless deemed by it altogether incompatible with the nature of the difference, or the circumstances of the case.

Article XXII.

If (which is not to be expected, and which God forbid) war should unhappily break out between the two republics, they do now, with a view to such calamity, solemnly pledge themselves to each other and to the world to observe the following rules, absolutely where the nature of the subject permits, and as closely as possible in all cases where such absolute observance shall be impossible:

1. The merchants of either republic then residing in the other shall be allowed to remain twelve months, (for those dwelling in the interior,) and six months, (for those dwelling at the sea-ports,) to collect their debts and settle their affairs; during which periods they shall enjoy the same protection, and be on the same footing, in all respects, as the citizens or subjects of the most friendly nations; and, at the expiration

thereof, or at any time before, they shall have full liberty to depart, carrying off all their effects without molestation or hindrance, conforming therein to the same laws which the citizens or subjects of the most friendly nations are required to conform to. Upon the entrance of the armies of either nation into the territories of the other, women and children, ecclesiastics, scholars of every faculty, cultivators of the earth, merchants, artisans, manufacturers, and fishermen, unarmed and inhabiting unfortified towns, villages, or places, and in general all persons whose occupations are for the common subsistence and benefit of mankind, shall be allowed to continue their respective employments, unmolested in their persons. Nor shall their houses or goods be burnt or otherwise destroyed, nor their cattle taken, nor their fields wasted, by the armed force into whose power, by the events of war, they may happen to fall; but if the necessity arise to take anything from them for the use of such armed force, the same shall be paid for at an equitable price. All churches, hospitals, schools, colleges, libraries, and other establishments for charitable and beneficent purposes, shall be respected, and all persons connected with the same protected in the discharge of their duties, and the pursuit of their vocations.

2. In order that the fate of prisoners of war may be alleviated, all such practices as those of sending them into distant, inclement, or unwholsesome districts, or crowding them into close and noxious places, shall be studiously avoided. They shall not be confined in dungeons, prison-ships, or prisons; nor be put in irons, or bound, or otherwise restrained in the use of their limbs. The officers shall enjoy liberty on their paroles, within convenient districts, and have comfortable quarters; and the common soldier shall be disposed in cantonments, open and extensive enough for air and exercise, and lodged in barracks as roomy and good as are provided by the party in whose power they are for its own troops. But if any officer shall break his parole by leaving the district so assigned him, or any other prisoner shall escape from the limits of his cantonment, after they shall have been designated to him, such individual, officer, or other prisoner, shall forfeit so much of the benefit of this article as provides for his liberty on parole or in cantonment. And if any officer so breaking his parole, or any common soldier so escaping from the limits assigned him, shall afterwards be found in arms, previously to his being regularly exchanged, the person so offending shall be dealt with according to the established laws of war. The officers shall be daily furnished by the party in whose power they are with as many rations, and of the same articles as are allowed, either in kind or by commutation, to officers of equal rank in its own army; and all others shall be daily furnished with such ration as is allowed to a common soldier in its own service; the value of all which supplies shall, at the close of the war, or at periods to be agreed upon between the respective commanders, be paid by the other party, on a mutual adjustment of accounts for the subsistence of prisoners; and such accounts shall not be mingled with or set off against any others, nor the balance due on them be withheld, as a compensation or reprisal for any cause whatever, real or pretended. Each party shall be allowed to keep a commissary of prisoners, appointed by itself, with every cantonment of prisoners, in possession of the other; which commissary shall see the prisoners as often as he pleases; shall be allowed to receive, exempt from all duties or taxes, and to distribute, whatever comforts may be sent to them by their friends; and shall be free to transmit his reports in open letters to the party by whom he is employed.

And it is declared that neither the pretence that war dissolves all treaties, nor any other whatever, shall be considered as annulling or suspending the solemn covenant contained in this article. On the contrary, the state of war is precisely that for which it is provided; and, during which, its stipulations are to be as sacredly observed as the most acknowledged obligations under the law of nature or nations.

Article XXIII.

This treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of the Mexican Republic, with the previous approbation of its general Congress; and the ratifications shall be exchanged in the city of Washington, or at the seat of Govern-

ment of Mexico, in four months from the date of the signature hereof, or sooner if practicable.

In faith whereof we, the respective Plenipotentiaries, have signed this treaty of peace, friendship, limits, and settlement, and have hereunto affixed our seals respectively. Done in quintuplicate, at the city of Guadalupe Hidalgo, on the second day of February, in the year of our Lord one thousand eight hundred and forty-eight.

N. P. TRIST. [L. S.]
LUIS G. CUEVAS. [L. S.]
BERNARDO COUTO. [L. S.]
MIGL. ATRISTAIN. [L. S.]

PROTOCOL.

In the city of Queretaro, on the twenty-sixth of the month of May, eighteen hundred and forty-eight, at a conference between their excellencies Nathan Clifford and Ambrose H. Sevier, Commissioners of the U. S. of A., with full powers from their Government to make to the Mexican Republic suitable explantions in regard to the amendments which the Senate and Government of the said United States have made in the treaty of peace, friendship, limits, and definitive settlement between the two Republics, signed in Guadalupe Hidalgo, on the second day of February of the present year; and His Excellency Don Luis de la Rosa, Minister of Foreign Affairs of the Republic of Mexico; it was agreed, after adequate conversation, respecting the changes alluded to, to record in the present protocol the following explanations, which their aforesaid excellencies the Commissioners gave in the name of their Government and in fulfillment of the commission conferred upon them near the Mexican Republic:

1st. The American Government by suppressing the IXth article of the treaty of Guadalupe Hidalgo and substituting the IIId article of the treaty of Louisiana, did not intend to diminish in any way what was agreed upon by the aforesaid article IXth in favor of the inhabitants of the territories ceded by Mexico. Its understanding is that all of that agreement is contained in the 3d article of the treaty of Louisiana. In consequence all the privileges and guarantees, civil, political, and religious, which would have been possessed by the inhabitants of the ceded territories, if the IXth article of the treaty had been retained, will be enjoyed by them, without any difference, under the article which has been substituted.

2d. The American Government by suppressing the Xth article of the treaty of Guadalupe did not in any way intend to annul the grants of lands made by Mexico in the ceded territories. These grants, notwithstanding the suppression of the article of the treaty, preserve the legal value which they may possess, and the grantees may cause their legitimate [titles] to be acknowledged before the American tribunals.

Conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing in the ceded territories are those which were legitimate titles under the Mexican law in California and New Mexico up to the 13th of May, 1846, and in Texas up to the 2d March, 1836.

3d. The Government of the United States, by suppressing the concluding paragraph of article XIIth of the treaty, did not intend to deprive the Mexican Republic of the free and unrestrained faculty of ceding, conveying, or transferring at any time (as it may judge best) the sum of the twelve millions of dollars which the same Government of the U. States is to deliver in the places designated by the amended article.

And these explanations having been accepted by the Minister of Foreign Affairs of the Mexican Republic, he declared, in name of his Government, that with the understanding conveyed by them the same Government would proceed to ratify the treaty of Guadalupe, as modified by the Senate and Government of the U. States. In testimony of which, their Excellencies, the aforesaid Commissioners and the Minister, have signed and sealed, in quintuplicate, the present protocol.

A. H. SEVIER. [SEAL.]
NATHAN CLIFFORD. [SEAL.]
LUIS DE LA ROSA. [SEAL.]

CONSTITUTION OF CALIFORNIA—1849.*

We, the people of California, grateful to Almighty God for our freedom in order to secure its blessings, do establish this constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent to the people. Government is instituted for the protection, security, and benefit of the people; and they have the right to alter or reform the same whenever the public good may require it.

SEC. 3. The right of trial by jury shall be secured to all, and remain inviolate forever; but a trial by jury may be waived by the parties in all civil cases, in the manner to be prescribed by law.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

SEC. 5. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require its suspension.

SEC. 6. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

SEC. 7. All persons shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or the presumption great.

SEC. 8. No person shall be held to answer for a capital or otherwise infamous crime, (except in cases of impeachment, and in cases of militia when in actual service, and the land and naval forces in time of war, or which this State may keep with the consent of Congress in time of peace, and in cases of petit larceny under the regulation of the legislature,) unless on presentment or indictment of a grand jury; and in any trial in any court whatever the party accused shall be allowed to appear and defend in person and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offence; nor shall he be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

SEC. 9. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions on indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

SEC. 10. The people shall have the right freely to assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

SEC. 11. All laws of a general nature shall have a uniform operation.

* This convention was framed by a convention called by General Riley, U. S. A., as provisional governor, which met at Monterey September 1, 1849, and adjourned October 13, 1849. The constitution submitted by them to the people was ratified November 13, 1849, receiving 12,061 votes against 811 votes.



SEC. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace; and in time of war no appropriation for a standing army shall be for a longer time than two years.

SEC. 13. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war, except in the manner to be prescribed by law.

SEC. 14. Representation shall be apportioned according to population.

SEC. 15. No person shall be imprisoned for debt in any civil action on mesne or final process, unless in cases of fraud; and no person shall be imprisoned for a militia fine in time of peace.

SEC. 16. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

SEC. 17. Foreigners who are, or who may hereafter become *bona-fide* residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property, as native-born citizens.

SEC. 18. Neither slavery nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State.

SEC. 19. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

SEC. 20. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

SEC. 21. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ARTICLE II.

RIGHT OF SUFFRAGE.

SECTION 1. Every white male citizen of the United States, and every white male citizen of Mexico who shall have elected to become a citizen of the United States, under the treaty of peace exchanged and ratified at Queretaro on the 30th day of May, 1848, of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county or district in which he claims his vote thirty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law: *Provided*, That nothing herein contained shall be construed to prevent the legislature, by a two-thirds concurrent vote, from admitting to the right of suffrage Indians or the descendants of Indians, in such special cases as such a proportion of the legislative body may deem just and proper.

SEC. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of the election, during their attendance at such election, going to and returning therefrom.

SEC. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

SEC. 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison.

SEC. 5. No idiot or insane person, or person convicted of any infamous crime, shall be entitled to the privileges of an elector.

SEC. 6. All elections by the people shall be by ballot.

ARTICLE III.

DISTRIBUTION OF POWERS.

The powers of the government of the State of California shall be divided into three separate departments—the legislative, the executive, and judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in a senate and assembly, which shall be designated "The legislature of the State of California," and the enacting clause of every law shall be as follows: "The people of the State of California, represented in senate and assembly, do enact as follows."

SEC. 2. The sessions of the legislature shall be annual, and shall commence on the first Monday of January next ensuing the election of its members, unless the governor of the State shall in the interim convene the legislature by proclamation.

SEC. 3. The members of the assembly shall be chosen annually, by the qualified voters of their respective districts, on the Tuesday next after the first Monday in November, unless otherwise ordered by the Legislature, and their term of office shall be one year.

SEC. 4. Senators and members of the assembly shall be duly-qualified electors in the respective counties and districts which they represent.

SEC. 5. Senators shall be chosen for the term of two years, at the same time and places as members of assembly; and no person shall be a member of the senate or assembly who has not been a citizen and inhabitant of the State one year, and of the county or district for which he shall be chosen six months next before his election.

SEC. 6. The number of senators shall not be less than one-third nor more than one-half of that of the members of assembly; and at the first session of the legislature after this constitution takes effect, the senators shall be divided by lot, as equally as may be, into two classes; the seats of the senators of the first class shall be vacated at the expiration of the first year, so that one-half shall be chosen annually.

SEC. 7. When the number of senators is increased, they shall be apportioned by lot, so as to keep the two classes as nearly equal in number as possible.

SEC. 8. Each house shall choose its own officers, and judge of the qualifications, elections, and returns of its own members.

SEC. 9. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 10. Each house shall determine the rules of its own proceedings, and may, with the concurrence of two-thirds of all the members elected, expel a member.

SEC. 11. Each house shall keep a journal of its own proceedings, and publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journal.

SEC. 12. Members of the legislature shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest; and they shall not be subject to any civil process during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.

SEC. 13. When vacancies occur in either house, the governor, or the person exercising the functions of the governor, shall issue writs of election to fill such vacancies.

SEC. 14. The doors of each house shall be open, except on such occasions as in the opinion of the house may require secrecy.

SEC. 15. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 16. Any bill may originate in either house of the legislature, and all bills passed by one house may be amended in the other.

SEC. 17. Every bill which may have passed the legislature shall, before it becomes a law, be presented to the governor. If he approve it he shall sign it, but if not he shall return it, with his objections, to the house in which it originated, which shall enter the same upon the journal and proceed to reconsider it. If, after such reconsideration, it again pass both houses by yeas and nays, by a majority of two-thirds of the members of each house present, it shall become a law, notwithstanding the governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him, (Sundays excepted,) the same shall be a law, in like manner as if he had signed it, unless the legislature, by adjournment, prevent such return.

SEC. 18. The assembly shall have the sole power of impeachment, and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 19. The governor, lieutenant-governor, secretary of state, comptroller, treasurer, attorney-general, surveyor-general, justices of the supreme court, and judges of the district courts shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanor in office, in such manner as the legislature may provide.

SEC. 20. No senator or member of assembly shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which shall have been increased, during such term, except such office as may be filled by elections by the people.

SEC. 21. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit under this State: *Provided*, That officers in the militia, to which there is attached no annual salary, or local officers and postmasters whose compensation does not exceed five hundred dollars per annum, shall not be deemed lucrative.

SEC. 22. No person who shall be convicted of the embezzlement or defalcation of the public funds of this State shall ever be eligible to any office of honor, trust, or profit under this State; and the legislature shall, as soon as practicable, pass a law providing for the punishment of such embezzlement or defalcation as a felony.

SEC. 23. No money shall be drawn from the treasury but in consequence of appropriations made by law. An accurate statement of the receipts and expenditures of the public moneys shall be attached to and published with the laws at every regular session of the legislature.

SEC. 24. The members of the legislature shall receive for their services a compensation to be fixed by law and paid out of the public treasury; but no increase of the compensation shall take effect during the term for which the members of either house shall have been elected.

SEC. 25. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title; and no law shall be revised or amended by reference to its title; but, in such case, the act revised or section amended shall be re-enacted and published at length.

SEC. 26. No divorce shall be granted by the legislature.

SEC. 27. No lottery shall be authorized by this State, nor shall the sale of lottery-tickets be allowed.

SEC. 28. The enumeration of the inhabitants of this State shall be taken, under the direction of the legislature, in the year 1852 and 1855, and at the end of every ten years thereafter; and these enumerations, together with the census that may be taken under the direction of the Congress of the United States in the year one thousand eight hundred and fifty, and every subsequent ten years, shall serve as the basis of representation in both houses of the legislature.

SEC. 29. The number of senators and members of assembly shall, at the first session

of the legislature holden after the enumerations herein provided for are made, be fixed by the legislature, and apportioned among the several counties and districts to be established by law, according to the number of white inhabitants. The number of members of assembly shall not be less than twenty-four, nor more than thirty-six, until the number of inhabitants within this State shall amount to one hundred thousand; and after that period, at such ratio that the whole number of members of assembly shall never be less than thirty nor more than eighty.

SEC. 30. When a congressional, senatorial, or assembly district shall be composed of two or more counties, it shall not be separated by any county belonging to another district; and no county shall be divided in forming a congressional, senatorial, or assembly district.

SEC. 31. Corporations may be formed under general laws, but shall not be created by special act except for municipal purposes. All general laws and special acts passed pursuant to this section may be altered from time to time, or repealed.

SEC. 32. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

SEC. 33. The term corporations as used in this article shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued, in all courts in like cases as natural persons.

SEC. 34. The legislature shall have no power to pass any act granting any charter for banking purposes; but associations may be formed under general laws for the deposit of gold and silver, but no such association shall make, issue, or put in circulation any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any bank, to circulate as money.

SEC. 35. The legislature of this State shall prohibit by law any person or persons, association, company, or corporation from exercising the privileges of banking or creating paper to circulate as money.

SEC. 36. Each stockholder of a corporation or joint-stock association shall be individually and personally liable for his proportion of all its debts and liabilities.

SEC. 37. It shall be the duty of the legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debts by such municipal corporations.

SEC. 38. In all elections by the legislature, the members thereof shall vote *viva voce*, and the votes shall be entered on the journal.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of California.

SEC. 2. The governor shall be elected by the qualified electors, at the time and places of voting for members of assembly, and shall hold his office two years from the time of his installation, and until his successor shall be qualified.

SEC. 3. No person shall be eligible to the office of governor (except at the first election) who has not been a citizen of the United States, and a resident of this State two years next preceding the election, and attained the age of twenty-five years at the time of said election.

SEC. 4. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the assembly, who shall, during the first week of the session, open and publish them in presence of both houses of the legislature. The person having the highest number of votes shall be governor; but in case any two or more have an equal and the highest number of votes, the legislature shall, by a joint vote of both houses, choose one of said persons, so having an equal and the highest number of votes, for governor.

SEC. 5. The governor shall be commander-in-chief of the militia, the army, and navy of this State.



SEC. 6. He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

SEC. 7. He shall see that the laws are faithfully executed.

SEC. 8. When any office shall from any cause become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the legislature, or at the next election by the people.

SEC. 9. He may, on extraordinary occasions, convene the legislature by proclamation, and shall state to both houses, when assembled, the purpose for which they shall have been convened.

SEC. 10. He shall communicate by message to the legislature, at every session, the condition of the State, and recommend such matters as he shall deem expedient.

SEC. 11. In case of a disagreement between the two houses with respect to the time of adjournment, the governor shall have power to adjourn the legislature to such time as he may think proper, provided it be not beyond the next time fixed for the meeting of the next legislature.

SEC. 12. No person shall, while holding any office under the United States or this State, exercise the office of governor, except as hereinafter expressly provided.

SEC. 13. The governor shall have the power to grant reprieves and pardons after conviction, for all offences except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have the power to suspend the execution of the sentence until the case shall be reported to the legislature at its next meeting, when the legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the legislature, at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence, at its date, and the date of the pardon or reprieve.

SEC. 14. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called "The Great Seal of the State of California."

SEC. 15. All grants and commissions shall be in the name and by the authority of the people of the State of California, sealed with the great seal of the State, signed by the governor, and countersigned by the secretary of state.

SEC. 16. A lieutenant-governor shall be elected at the same time and places and in the same manner as the governor; and his term of office, and his qualifications of eligibility, shall also be the same. He shall be president of the senate, but shall only have a casting vote therein. If, during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the president of the senate shall act as governor until the vacancy be filled or the disability shall cease.

SEC. 17. In case of the impeachment of the governor, or his removal from office, death, inability to discharge the powers and the duties of the said office, resignation, or absence from the State, the powers and the duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability shall cease. But when the governor shall, with the consent of the legislature, be out of the State in time of war, and at the head of any military force thereof, he shall continue commander-in-chief of the military force of the State.

SEC. 18. A secretary of state, a comptroller, a treasurer, an attorney-general, and surveyor-general shall be chosen in the manner provided in this constitution; and the term of office and eligibility of each shall be the same as are prescribed for the governor and lieutenant-governor.

SEC. 19. The secretary of state shall be appointed by the governor, by and with the advice and consent of the senate. He shall keep a fair record of the official acts of the legislative and executive departments of the government, and shall, when re-

quired, lay the same, and all matters relative thereto, before either branch of the legislature, and shall perform such other duties as shall be assigned him by law.

SEC. 20. The comptroller, treasurer, attorney-general, and surveyor-general shall be chosen by joint vote of the two houses of the legislature, at their first session under this constitution, and thereafter shall be elected at the same time and places and in the same manner as the governor and lieutenant-governor.

SEC. 21. The governor, lieutenant-governor, secretary of state, comptroller, treasurer, attorney-general, and surveyor-general shall each at stated times during their continuance in office receive for their services a compensation, which shall not be increased or diminished during the term for which they shall have been elected; but neither of these officers shall receive for his own use any fees for the performance of his official duties.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in a supreme court, in district courts, in county courts, and in justices of the peace. The legislature may also establish such municipal and other inferior courts as may be deemed necessary.

SEC. 2. The supreme court shall consist of a chief-justice and two associate justices, any two of whom shall constitute a quorum.

SEC. 3. The justices of the supreme court shall be elected at the general election by the qualified electors of the State, and shall hold their office for the term of six years from the 1st day of January next after their election: *Provided*, That the legislature shall, at its first meeting, elect a chief-justice and two associate justices of the supreme court, by a joint vote of both houses, and so classify them that one shall go out of office every two years. After the first election the senior justice in commission shall be the chief-justice.

SEC. 4. The supreme court shall have appellate jurisdiction in all cases when the matter in dispute exceeds two hundred dollars, when the legality of any tax, toll, or impost, or municipal fine is in question, and in all criminal cases amounting to felony or questions of law alone. And the said court, and each of the justices thereof, as well as all district and county judges, shall have power to issue writs of *habeas corpus* at the instance of any person held in actual custody. They shall also have power to issue all other writs and process necessary to the exercise of their appellate jurisdiction, and shall be conservators of the peace throughout the State.

SEC. 5. The State shall be divided by the first legislature into a convenient number of districts, subject to such alteration from time to time as the public good may require, for each of which a district judge shall be appointed by the joint vote of the legislature, at its 1st meeting, who shall hold his office for two years from the 1st day of January next after his election; after which said judges shall be elected by the qualified electors of their respective districts, at the general election, and shall hold their office for the term of six years.

SEC. 6. The district courts shall have original jurisdiction in law and equity in all civil cases where the amount in dispute exceeds two hundred dollars, exclusive of interest. In all criminal cases not otherwise provided for, and in all issues of fact joined in the probate courts, their jurisdiction shall be unlimited.

SEC. 7. The legislature shall provide for the election by the people of a clerk of the supreme court, and county clerks, district attorneys, sheriffs, coroners, and other necessary officers; and shall fix by law their duties and compensation. County clerks shall be *ex-officio* clerks of the district courts in and for their respective counties.

SEC. 8. There shall be elected in each of the organized counties of this State one county judge, who shall hold his office for four years. He shall hold the county court, and perform the duties of surrogate or probate judge. The county judge, with two justices of the peace, to be designated according to law, shall hold courts of sessions, with such criminal jurisdiction as the legislature shall prescribe, and he shall perform such other duties as shall be required by law.

SEC. 9. The county courts shall have such jurisdiction in cases arising in justices'

courts, and in special cases, as the legislature may prescribe, but shall have no original civil jurisdiction except in such special cases.

SEC. 10. The times and places of holding the terms of the supreme court and the general and special terms of the district courts within the several districts shall be provided for by law.

SEC. 11. No judicial officer, except a justice of the peace, shall receive to his own use any fees or perquisites of office.

SEC. 12. The legislature shall provide for the speedy publication of all statute laws, and of such judicial decisions as it may deem expedient; and all laws and judicial decisions shall be free for publication by any person.

SEC. 13. Tribunals for conciliation may be established, with such powers and duties as may be prescribed by law; but such tribunals shall have no power to render judgment to be obligatory on the parties, except they voluntarily submit their matters in difference, and agree to abide the judgment, or assent thereto in the presence of such tribunal, in such cases as shall be prescribed by law.

SEC. 14. The legislature shall determine the number of justices of the peace to be elected in each county, city, town, and incorporated village of the State, and fix by law their powers, duties, and responsibilities. It shall also determine in what case appeals may be made from justices' courts to the county court.

SEC. 15. The justices of the supreme court and judges of the district court shall severally, at stated times during their continuance in office, receive for their services a compensation, to be paid out of the treasury, which shall not be increased or diminished during the term for which they shall have been elected. The county judges shall also severally, at stated times, receive for their services a compensation, to be paid out of the county treasury of their respective counties, which shall not be increased or diminished during the term for which they shall have been elected.

SEC. 16. The justices of the supreme court and district judges shall be ineligible to any other office during the term for which they shall have been elected.

SEC. 17. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

SEC. 18. The style of all process shall be, "The People of the State of California." All the prosecutions shall be conducted in the name and by the authority of the same.

ARTICLE VII.

MILITIA.

SECTION 1. The legislature shall provide by law for organizing and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States.

SEC. 2. Officers of the militia shall be elected or appointed, in such a manner as the legislature shall from time to time direct, and shall be commissioned by the governor.

SEC. 3. The governor shall have power to call for the militia to execute the laws of the State, to suppress insurrections, and repel invasions.

ARTICLE VIII.

STATE DEBT.

The legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly or in the aggregate, with any previous debts or liabilities, exceed the sum of three hundred thousand dollars, except in case of war, to repel invasion or suppress insurrection, unless the same shall be authorized by some law for some single object or work, to be distinctly specified therein, which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also pay and discharge the principal of such debt or liability within twenty years from the time of the contracting thereof, and shall be irrepeala-

ble until the principal and interest thereon shall be paid and discharged; but no such law shall take effect until, at a general election, it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt thereby created; and such law shall be published in at least one newspaper in each judicial district, if one be published therein, throughout the State, for three months next preceding the election at which it is submitted to the people.

ARTICLE IX.

EDUCATION.

SECTION. 1. The legislature shall provide for the election, by the people, of a superintendent of public instruction, who shall hold his office for three years, and whose duties shall be prescribed by law, and who shall receive such compensation as the legislature may direct.

SEC. 2. The legislature shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all land that may be granted by the United States to this State for the support of schools, which may be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved A. D. 1841, and all estate of deceased persons who may have died without leaving a will, or heir, and also such per cent. as may be granted by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State.

SEC. 3. The legislature shall provide for a system of common schools, by which a school shall be kept up and supported in each district at least three months in every year, and any district neglecting to keep and support such a school may be deprived of its proportion of the interest of the public fund during such neglect.

SEC. 4. The legislature shall take measures for the protection, improvement, or other disposition of such lands as have been, or may hereafter be reserved or granted by the United States or any person or persons, to the State for the use of the university; and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of said university, with such branches as the public convenience may demand for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the legislature, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

ARTICLE X.

MODE OF AMENDING AND REVISING THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate or assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice. And if, in the legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people in such manner and at such time as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote

for members of the legislature, voting thereon, such amendment or amendments shall become part of the constitution.

SEC. 2. And if at any time two-thirds of the senate and assembly shall think it necessary to revise and change this entire constitution, they shall recommend to the electors, at the next election for members of the legislature, to vote for or against the convention; and if it shall appear that a majority of the electors voting at such election have voted in favor of calling a convention, the legislature shall, at its next session, provide by law for calling a convention, to be holden within six months after the passage of such law; and such convention shall consist of a number of members not less than that of both branches of the legislature.

ARTICLE XI.

MISCELLANEOUS PROVISIONS.

SECTION 1. The first session of the legislature shall be held at the Pueblo de San Jose, which place shall be the permanent seat of government until removed by law: *Provided, however,* That two-thirds of all the members elected to each house of the legislature shall concur in the passage of such law.

SEC. 2. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it; or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this constitution.

SEC. 3. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the constitution of the State of California, and that I will faithfully discharge the duties of the office of ——, according to the best of my ability."

And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

SEC. 4. The legislature shall establish a system of county and town governments, which shall be as nearly uniform as practicable throughout the State.

SEC. 5. The legislature shall have power to provide for the election of a board of supervisors in each county; and these supervisors shall jointly and individually perform such duties as may be prescribed by law.

SEC. 6. All officers whose election or appointment is not provided for by this constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed as the legislature may direct.

SEC. 7. When the duration of any office is not provided for by this Constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment; nor shall the duration of any office not fixed by this constitution ever exceed four years.

SEC. 8. The fiscal year shall commence on the 1st day of July.

SEC. 9. Each county, town, city, and incorporated village shall make provision for the support of its own officers, subject to such restrictions and regulations as the legislature may prescribe.

SEC. 10. The credit of the State shall not in any manner be given or loaned to or in aid of any individual, association, or corporation; nor shall the State, directly or indirectly, become a stockholder in any association or corporation.

SEC. 11. Suits may be brought against the State in such manner, and in such courts, as shall be directed by law.

SEC. 12. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

SEC. 13. Taxation shall be equal and uniform throughout the State. All property in this State shall be taxed in proportion to its value, to be ascertained as directed by



law; but assessors and collectors of town, county, and State taxes shall be elected by the qualified electors of the district, county, or town in which the property taxed for State, county, or town purposes is situated.

SEC. 14. All property, both real and personal, of the wife, owned or claimed by marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property, as to that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 15. The legislature shall protect by law from forced sale a certain portion of the homestead and other property of all heads of families.

SEC. 16. No perpetuities shall be allowed, except for eleemosynary purposes.

SEC. 17. Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

SEC. 18. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 19. Absence from the State on business of the State or of the United States shall not affect the question of residence of any person.

SEC. 20. A plurality of the votes given at an election shall constitute a choice, where not otherwise directed in this constitution.

SEC. 21. All laws, decrees, regulations, and provisions, which from their nature require publication, shall be published in English and Spanish.

ARTICLE XII.

BOUNDARY.

The boundary of the State of California shall be as follows:

Commencing at the point of intersection of forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of said one hundred and twentieth degree of west longitude until it intersects the thirty-ninth degree of north latitude; thence running in a straight line in a southeasterly direction to the river Colorado, at a point where it intersects the thirty-fifth degree of north latitude; thence down the middle of the channel of said river to the boundary-line between the United States and Mexico, as established by the treaty of May 30, 1848; thence running west and along said boundary-line to the Pacific Ocean, and extending therein three English miles; thence running in a northwesterly direction, and following the direction of the Pacific coast, to the forty-second degree of north latitude; thence on the line of said forty-second degree of north latitude to the place of beginning. Also all the islands, harbors, and bays along and adjacent to the Pacific coast.

SCHEDULE.

SECTION 1. All rights, prosecutions, claims, and contracts, as well of individuals as of bodies-corporate, and all laws in force at the time of the adoption of this constitution, and not inconsistent therewith, until altered or repealed by the legislature, shall continue as if the same had not been adopted.

SEC. 2. The legislature shall provide for the removal of all causes which may be pending when this constitution goes into effect to courts created by the same.

SEC. 3. In order that no inconvenience may result to the public service from the taking effect of this constitution, no office shall be superseded thereby, nor the laws relative to the duties of the several officers be changed, until the entering into office of the new officers to be appointed under this constitution.

SEC. 4. The provisions of this constitution concerning the term of residence neces-

sary to enable persons to hold certain offices therein mentioned shall not be held to apply to officers chosen by the people at the first election, or by the legislature at its first session.

SEC. 5. Every citizen of California declared a legal voter by this constitution, and every citizen of the United States a resident of this State on the day of election, shall be entitled to vote at the first general election under this constitution and on the question of the adoption thereof.

SEC. 6. This constitution shall be submitted to the people, for their ratification or rejection, at the general election to be held on Tuesday, the 13th day of November next. The executive of the existing government of California is hereby requested to issue a proclamation to the people directing the prefects of the several districts, or, in case of vacancy, the sub-prefects, or senior judge of first instance, to cause such election to be held, the day aforesaid, in the respective districts. The election shall be conducted in the manner which was prescribed for the election of delegates to this convention, except that the prefect, sub-prefect, or senior judge of first instance ordering such election in each district shall have power to designate any additional number of places for opening the polls, and that in every place of holding the election a regular poll-list shall be kept by the judges and inspectors of election. It shall also be the duty of these judges and inspectors of election, on the day aforesaid, to receive the votes of the electors qualified to vote at such election. Each voter shall express his opinion by depositing in the ballot-box a ticket, whereon shall be written or printed "For the constitution" or "Against the constitution," or some such words as will distinctly convey the intention of the voter. These judges and inspectors shall also receive the votes for the several officers to be voted for at the said election as herein provided. At the close of the election the judges and inspectors shall carefully count each ballot, and forthwith make duplicate returns thereof to the prefect, sub-prefect, or senior judge of first instance, as the case may be, of their respective districts; and said prefect, sub-prefect, or senior judge of first instance shall transmit one of the same, by the most safe and rapid conveyance, to the secretary of state. Upon the receipt of said returns, or on the 10th day of December next, if the returns be not sooner received, it shall be the duty of a board of canvassers, to consist of the secretary of state, one of the judges of the superior court, the prefect, judge of first instance, and an alcalde of the district of Monterey, or any three of the aforementioned officers, in the presence of all who shall choose to attend, to compare the votes given at said election, and to immediately publish an abstract of the same in one or more of the newspapers of California. And the executive will also, immediately after ascertaining that the constitution has been ratified by the people, make proclamation of the fact; and thenceforth this constitution shall be ordained and established as the constitution of California.

SEC. 7. If this constitution shall be ratified by the people of California, the executive of the existing government is hereby requested immediately after the same shall be ascertained, in the manner herein directed, to cause a fair copy thereof to be forwarded to the President of the United States, in order that he may lay it before the Congress of the United States.

SEC. 8. At the general election aforesaid, viz, the 13th day of November next, there shall be elected a governor, lieutenant-governor, members of the legislature, and also two members of Congress.

SEC. 9. If this constitution shall be ratified by the people of California, the legislature shall assemble at the seat of government on the 15th day of December next; and in order to complete the organization of that body, the senate shall elect a president *pro tempore* until the lieutenant-governor shall be installed into office.

SEC. 10. On the organization of the legislature, it shall be the duty of the secretary of state to lay before each house a copy of the abstract made by the board of canvassers, and, if called for, the original returns of election, in order that each house may judge of the correctness of the report of said board of canvassers.

SEC. 11. The legislature, at its first session, shall elect such officers as may be ordered by this constitution to be elected by that body, and within four days after its organization proceed to elect two Senators to the Congress of the United States.

But no law passed by this legislature shall take effect until signed by the governor after his installation into office.

SEC. 12. The Senators and Representatives to the Congress of the United States, elected by the legislature and people of California as herein directed, shall be furnished with certified copies of this constitution when ratified, which they shall lay before the Congress of the United States, requesting, in the name of the people of California, the admission of the State of California into the American Union.

SEC. 13. All officers of this State, other than members of the legislature, shall be installed into office on the 15th day of December next, or as soon thereafter as practicable.

SEC. 14. Until the legislature shall divide the State into counties, and senatorial and assembly districts, as directed in this constitution, the following shall be the apportionment of the two houses of the legislature, viz: the districts of San Diego and Los Angeles shall jointly elect two senators; the districts of Santa Barbara and San Luis Obispo shall jointly elect one senator; the district of Monteery, one senator; the district of San Jose, one senator; the district of San Francisco, two senators; the district of Sonoma, one senator; the district of Sacramento, four senators; and the district of San Joaquin, four senators. And the district of San Diego shall elect one member of assembly; the district of Los Angeles, two members of assembly; the district of Santa Barbara, two members of assembly; the district of San Luis Obispo, one member of assembly; the district of Monterey, two members of assembly; the district of San Jose, three members of assembly; the district of San Francisco, five members of assembly; the district of Sonoma, two members of assembly; the district of Sacramento, nine members of assembly; and the district of San Joaquin, nine members of assembly.

SEC. 15. Until the legislature shall otherwise direct, in accordance with the provisions of this constitution, the salary of the governor shall be ten thousand dollars per annum; and the salary of the lieutenant-governor shall be double the pay of a State senator; and the pay of members of the legislature shall be sixteen dollars per diem while in attendance, and sixteen dollars for every twenty miles travel by the usual route from their residences to the place of holding the session of the legislature, and in returning therefrom. And the legislature shall fix the salaries of all officers, other than those elected by the people at the first election.

SEC. 16. The limitation of the powers of the legislature, contained in article eighth of this constitution, shall not extend to the first legislature elected under the same, which is hereby authorized to negotiate for such amount as may be necessary to pay the expenses of the State government.

R. SEMPLE, *President.*

WM. G. MARCY, *Secretary.*

ACT FOR THE ADMISSION OF CALIFORNIA—1850.*

Whereas the people of California have presented a constitution and asked admission into the Union, which constitution was submitted to Congress by the President of the United States, by message dated February thirteenth, eighteen hundred and fifty, and which, on due examination, is found to be republican in its form of government:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of California shall be one, and is here-

* Congress having failed to pass a bill establishing a territorial government in California, which was presented in 1849, and two bills establishing a State government there, which were presented in 1849 and in 1850, passed this act for the admission of California as one of the United States, which was approved September 9, 1850. A subsequent act of Congress, approved September 28, 1856, provided, "That all the laws of the United States which are not locally inapplicable shall have the same force and effect within the said State of California as elsewhere within the United States."



by declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever.

SEC. 2. *And be it further enacted*, That, until the Representatives in Congress shall be apportioned according to an actual enumeration of the inhabitants of the United States, the State of California shall be entitled to two Representatives in Congress.

SEC. 3. *And be it further enacted*, That the said State of California is admitted into the Union upon the express condition that the people of said State, through their legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of, the same shall be impaired or questioned; and that they shall never lay any tax or assessment of any description whatsoever upon the public domain of the United States, and in no case shall non-resident proprietors, who are citizens of the United States, be taxed higher than residents; and that all the navigable waters within the said State shall be common highways, and forever free, as well to the inhabitants of said State as to the citizens of the United States, without any tax, impost, or duty therefor: *Provided*, That nothing herein contained shall be construed as recognizing or rejecting the propositions tendered by the people of California as articles of compact in the ordinance adopted by the convention which formed the constitution of that State.

Approved, September 9, 1850.

AMENDMENTS TO THE CONSTITUTION OF 1849.*

RATIFIED SEPTEMBER 3, 1862.

Strike out the following-named sections and in lieu thereof insert:

ART. IV. SEC. 2. The sessions of the legislature shall be biennial, and shall commence on the first Monday of January next ensuing the election of its members, unless the governor of the State shall in the interim convene the legislature by proclamation. No session shall continue longer than ninety days, unless the time be extended by a joint resolution, to be passed by a majority of each house.

SEC. 3. The members of the assembly shall be chosen biennially, by the qualified electors of their respective districts, on the first Wednesday in September, unless otherwise ordered by the legislature, and their term of office shall be two years.

SEC. 5. Senators shall be chosen for the term of four years, at the same time and places as members of assembly; and no person shall be a member of the senate, or assembly, who has not been a citizen and inhabitant of the State, and of the county or district for which he shall be chosen, one year next before his election.

SEC. 6. The number of senators shall not be less than one third, nor more than one-half, of the members of assembly; and at the first session of the legislature after this section takes effect, the senators shall be divided by lot, as equally as may be, into two classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, so that one-half shall be chosen biennially.

SEC. 30. When a congressional, senatorial, or assembly district shall be composed of two or more counties, it shall not be separated by any county belonging to another district. No county shall be divided, in forming a congressional, senatorial, or assembly district, so as to attach one portion of a county to another county; but the legislature may divide each county into as many congressional, senatorial, or assembly districts as such county may by apportionment be entitled to.

SEC. 39. In order that no inconvenience may result to the public service from the taking effect of the amendments proposed to article four by the legislature of eighteen hundred and sixty-one, no officer shall be suspended or superseded thereby until the election and qualification of the several officers provided for in said amendments.

ART. V. SEC. 2. The governor shall be elected by the qualified electors at the time

* These amendments, prepared by the legislature in 1861, approved by the legislature of 1862, and ratified by the people.

and places for voting for members of the assembly, and shall hold his office four years from and after the first Monday in December subsequent to his election, and until his successor is elected and qualified.

SEC. 18. A secretary of state, a comptroller, a treasurer, an attorney-general, and a surveyor-general shall be elected at the same time and places, and in the same manner, as the governor and lieutenant-governor, and whose term of office shall be the same as the governor.

SEC. 19. The secretary of state shall keep a fair record of the official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature, and shall perform such other duties as may be assigned him by law; and in order that no inconvenience may result to the public service, from the taking effect of the amendments proposed to said article five by the legislature of 1861, no officer shall be superseded or suspended thereby, until the election and qualification of the several officers provided for in said amendments.

ART. VI. SECTION 1. The judicial power of this State shall be vested in a supreme court, in district courts, in county courts, in probate courts, and in justices of the peace, and in such recorders and other inferior courts as the legislature may establish in any incorporated city or town.

SEC. 2. The supreme court shall consist of a chief justice and four associate justices. The presence of three justices shall be necessary for the transaction of business, excepting such business as may be done at chambers, and the concurrence of three justices shall be necessary to pronounce a judgment.

SEC. 3. The justices of the supreme court shall be elected by the qualified electors of the State at special elections to be provided by law, at which elections no officer other than judicial shall be elected, except a superintendent of public instruction. The first election for justices of the supreme court shall be held in the year 1863. The justices shall hold their offices for the term of ten years from the 1st day of January next after their election, except those elected at the first election, who, at their first meeting, shall so classify themselves by lot that one justice shall go out of office every two years. The justice having the shortest term to serve shall be the chief justice.

SEC. 4. The supreme court shall have appellate jurisdiction in all cases in equity; also, in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars; also, in all cases arising in the probate courts; and also, in all criminal cases amounting to felony, on questions of law alone. The court shall also have power to issue writs of *mandamus*, *certiorari*, prohibition, and *habeas corpus*, and also all writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the justices shall have power to issue writs of *habeas corpus* to any part of the State, upon petition on behalf of any person held in actual custody, and may make such writs returnable before himself, or the supreme court, or before any district court, or any county court in the State, or before any judge of said courts.

SEC. 5. The State shall be divided by the legislature of 1863 into fourteen judicial districts, subject to such alteration from time to time, by a two-thirds vote of all the members elected to both houses, as the public good may require; in each of which there shall be a district court, and for each of which a district judge shall be elected by the qualified electors of the district, at the special judicial elections to be held as provided for the election of justices of the supreme court, by section three of this article. The district judges shall hold their offices for the term of six years from the 1st day of January next after their election. The legislature shall have no power to grant leave of absence to a judicial officer, and any such officer who shall absent himself from the State for upwards of thirty consecutive days shall be deemed to have forfeited his office.

SEC. 6. The district courts shall have original jurisdiction in all cases in equity; also, in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases

in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars; and also in all criminal cases not otherwise provided for. The district courts and their judges shall have power to issue writs of *habeas corpus* on petition by or on behalf of any person held in actual custody in their respective districts.

SEC. 7. There shall be in each of the organized counties of the State a county court, for each of which a county judge shall be elected by the qualified electors of the county, at the special judicial elections to be held, as provided for the election of justices of the supreme court by section three of this article. The county judges shall hold their offices for the term of four years from the 1st day of January next after their election. Said courts shall also have power to issue naturalization-papers. In the city and county of San Francisco the legislature may separate the office of probate judge from that of county judge, and may provide for the election of a probate judge, who shall hold his office for the term of four years.

SEC. 8. The county courts shall have original jurisdiction of actions of forcible entry and detainer, of proceedings in insolvency, of actions to prevent or abate a nuisance, and of all such special cases and proceedings as are not otherwise provided for; and, also, such criminal jurisdiction as the legislature may prescribe; they shall also have appellate jurisdiction in all cases arising in courts held by justices of the peace and recorders, and in such inferior courts as may be established, in pursuance of section one of this article, in their respective counties. The county judges shall also hold in their several counties probate courts, and perform such duties as probate judges as may be prescribed by law. The county courts and their judges shall also have power to issue writs of *habeas corpus*, on petition by or on behalf of any person in actual custody in their respective counties.

SEC. 9. The legislature shall determine the number of justices of the peace to be elected in each city and township of the State, and fix by law their powers, duties, and responsibilities; *Provided*, Such powers shall not in any case trench upon the jurisdiction of the several courts of record. The supreme court, the district courts, county courts, the probate courts, and such other courts as the legislature shall prescribe, shall be courts of record.

SEC. 10. The legislature shall fix by law the jurisdiction of any recorder's or other inferior municipal court, which may be established in pursuance of section one of this article, and shall fix by law the powers, duties, and responsibilities of the judges thereof.

SEC. 11. The legislature shall provide for the election of a clerk of the supreme court, county clerks, district attorneys, sheriffs, and other necessary officers, and shall fix by law their duties and compensation. County clerks shall be *ex-officio* clerks of the courts of record in and for their respective counties. The legislature may also provide for the appointment by the several district courts of one or more commissioners in the several counties of their respective districts, with authority to perform chamber business of the judges of the district courts and county courts, and also to take depositions and to perform such other business connected with the administration of justice as may be prescribed by law.

SEC. 12. The times and places of holding the terms of the several courts of record shall be provided for by law.

SEC. 13. No judicial officer, except justices of the peace, recorders, and commissioners, shall receive to his own use any fees or perquisites of office.

SEC. 14. The legislature shall provide for the speedy publication of such opinions of the supreme court as it may deem expedient; and all opinions shall be free for publication by any person.

SEC. 15. The justices of the supreme court, district judges, and county judges shall severally, at stated times during their continuance in office, receive for their services a compensation, which shall not be increased or diminished during the term for which they shall have been elected: *Provided*, That county judges shall be paid out of the county treasury of their respective counties.

SEC. 16. The justices of the supreme court, and the district judges, and the county

judges, shall be ineligible to any other office than a judicial office during the term for which they shall have been elected.

SEC. 17. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

SEC. 18. The style of all process shall be, "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority.

SEC. 19. In order that no inconvenience may result to the public service from the taking effect of the amendments proposed to said article six by the legislature of 1861, no officer shall be superseded thereby, nor shall the organization of the several courts be changed thereby, until the election and qualification of the several officers provided for in said amendments.

ART. IX. SECTION 1. A superintendent of public instruction shall, at the special election for judicial officers to be held in the year 1863, and every four years thereafter at such special elections, be elected by the qualified voters of the State, and shall enter upon the duties of his office on the 1st day of December next after his election.

ART. X. SEC. 2. And if at any time two-thirds of the senate and assembly shall think it necessary to revise or change this entire constitution, they shall recommend to the electors, at the next election for members of the legislature, to vote for or against a convention, and if it shall appear that a majority of the electors, voting at such election, have voted in favor of calling a convention, the legislature shall, at its next session, provide by law for calling a convention, to be holden within six months after the passage of such law; and such convention shall consist of a number of members not less than that of both branches of the legislature. The constitution that may have been agreed upon and adopted by such convention shall be submitted to the people at a special election, to be provided for by law, for their ratification or rejection; each voter shall express his opinion by depositing in the ballot-box a ticket, whereon shall be written or printed the words "For the new constitution," or "Against the new constitution." The returns of such election shall, in such manner as the convention shall direct, be certified to the executive of the State, who shall call to his assistance the comptroller, treasurer, and secretary of state, and compare the votes so certified to him. If by such examination it be ascertained that a majority of the whole number of votes cast at such election be in favor of such new constitution, the executive of this State shall, by his proclamation, declare such new constitution to be the constitution of the State of California.

RATIFIED IN 1871.*

ART. I. SEC. 22. The legislature shall have no power to make an appropriation, for any purpose whatever, for a longer period than two years.

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*This amendment was proposed by the legislature in 1866, approved by the legislature in 1868, and ratified by the people in 1871.

NOTE.—Several amendments to the constitution of the State of California were proposed at the twentieth session of the legislature thereof, and were referred to the legislature then next to be chosen, by which they were adopted. They must now be submitted to the people for ratification. (See "Statutes of California," 1875-'76, pp. 929-934.)

COLORADO.*

TREATY CEDING LOUISIANA—1803.

[See "Louisiana," pages 687–689.]

CONVENTION BETWEEN UNITED STATES AND TEXAS—1838.

[See "Texas," pages 1763, 1764.]

THE TREATY OF GUADALUPE HIDALGO—1848.

[See "California," pages 185, 194.]

THE TERRITORIAL GOVERNMENT OF COLORADO—1861.

[THIRTY-SIXTH CONGRESS, SECOND SESSION.]

An Act to provide a temporary government for the Territory of Colorado.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the territory of the United States included within the following limits, viz.: Commencing on the thirty-seventh parallel of north latitude, where the twenty-fifth meridian of longitude west from Washington crosses the same; thence north on said meridian to the forty-first parallel of north latitude; thence along said parallel west to the thirty-second meridian of longitude west from Washington; thence south on said meridian to the northern line of New

* The area of the State of Colorado was ceded to the United States by France, the State of Texas, and Mexico. The northeast portion of the State, bounded north and south by the 41st and 42d parallels, east by the 25th meridian, and west by the Rocky Mountains, ceded by France, was a part of the original Territory of Nebraska, and was transferred to the Territory of Colorado. The eastern portion of the State, bounded north by the 40th parallel, east by the 25th meridian, south by the Arkansas River westward to the 26th meridian, and west by the Rocky Mountains, ceded by France, was a part of the original Territory of Kansas, and was transferred to the Territory of Colorado. The south-eastern portion of the State, bounded on the north by the Arkansas River, east by the 25th meridian, south by the 37th parallel, and west by the 26th meridian, ceded by the State of Texas and by Mexico, was transferred from the original Territory of Kansas to the Territory of Colorado. The southern portion of the State, bounded on the north and south by the 38th and 37th parallels, east by the 26th meridian, and west by the Rocky Mountains, ceded by the State of Texas and Mexico, was transferred from the Territory of New Mexico to the Territory of Colorado. The western portion of the State, bounded north and south by the 41st and 42d parallels, east by the Rocky Mountains, and west by the 32d meridian, ceded by Mexico, was transferred from the Territory of Utah to the Territory of Colorado.



Mexico; thence along the thirty-seventh parallel of north latitude to the place of beginning, be and the same is hereby erected into a temporary government by the name of the Territory of Colorado: *Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries and constitute no part of the Territory of Colorado until said tribe shall signify their assent to the President of the United States to be included within the said Territory, or to affect the authority of the Government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the Government to make if this act had never passed: *Provided further*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion thereof to any other Territory or State.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Colorado shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor, in his executive department; he shall transmit one copy of the laws and one copy of the executive proceedings, on or before the first day of December in each year, to the President of the United States, and, at the same time, two copies of the laws to the Speaker of the House of Representatives and the President of the Senate for the use of Congress. And in case of the death, removal, or resignation, or other necessary absence of the governor from the Territory, the secretary shall have, and he is hereby authorized and required to execute and perform, all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of nine members, which may be increased to thirteen, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall consist of thirteen members, which may be increased to twenty-six, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the council and house of representatives, giving to each section of the Territory representation in the ratio of its population (Indians excepted) as nearly as may be; and the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district for which they may be elected, respectively. Previous to the first election the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the Territory to

be taken; and the first election shall be held at such time and places and be conducted in such manner as the governor shall appoint and direct; and he shall, at the same time, declare the number of the members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be elected, having the highest number of votes in each of said council districts for members of the council, shall be declared by the governor to be duly elected to the council; and the person or persons authorized to be elected having the greatest number of votes for the house of representatives, equal to the number to which each county or district shall be entitled, shall be declared by the governor to be elected members of the house of representatives: *Provided*, That in case of a tie between two or more persons voted for, the governor shall order a new election to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives according to the population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no one session shall exceed the term of forty days, except the first, which may be extended to sixty days, but no longer.

SEC. 5. *And be it further enacted*, That every free white male citizen of the United States above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, including those recognized as citizens by the treaty with the Republic of Mexico, concluded February two, eighteen hundred and forty-eight, and the treaty negotiated with the same country on the thirtieth day of December, eighteen hundred and fifty-three, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office at all subsequent elections shall be such as shall be prescribed by the legislative assembly.

SEC. 6. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of the act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents; nor shall any law be passed impairing the rights of private property; nor shall any discrimination be made in taxing different kinds of property; but all property subject to taxation shall be in proportion to the value of the property taxed.

SEC. 7. *And be it further enacted*, That all township, district, and county officers not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory. The governor shall nominate and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief-justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat

of government of said Territory annually; and they shall hold their offices during the period of four years. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court at such time and place as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of the justices of the peace, shall be as limited by law: *Provided*, That justices of the peace and probate courts shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction; and authority for redress of all wrongs committed against the Constitution or laws of the United States, or of the Territory, affecting persons or property. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; and each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the Constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and the said supreme and district courts of the said Territory, and the respective judges thereof, shall and may grant writs of *habeas corpus* in all cases in which the same are grantable by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws, and writs of error and appeals in all such cases shall be made to the supreme court of said Territory the same as in other cases. The said clerk shall receive in all such cases the same fees which the clerks of the district courts of Oregon Territory received for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the late Territory of Oregon. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the late Territory of Oregon, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief-justice, and associate justices, attorney, and marshal, shall be nominated and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge or some justice of the peace in the limits of said Territory duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief-Justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, which

said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the secretary among the executive proceedings; and the chief-justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the Territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterward the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs; the chief-justice and associate justices shall each receive an annual salary of eighteen hundred dollars; the secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be paid quarter-yearly at the Treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the session thereof, and three dollars for every twenty miles travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route. There shall be appropriated annually the sum of one thousand dollars, to be expended by the governor, to defray the contingent expenses of the Territory. There shall also be appropriated annually a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

SEC. 12. *And be it further enacted*, That the legislative assembly of the Territory of Colorado shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly.

SEC. 13. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve during each Congress of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives. The first election shall be held at such time and places and be conducted in such manner as the governor shall appoint and direct; and at all subsequent elections the times, places, and manner of holding elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly.

SEC. 14. *And be it further enacted*, That when the land in the said Territory shall be surveyed, under the direction of [the] Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be and the same are hereby reserved for the purpose of being applied to schools in the States hereafter to be erected out of the same.

SEC. 15. *And be it further enacted*, That temporarily, and until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation to be issued by him; but the legislative assembly at their first or any subsequent session may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 16. *And be it further enacted*, That the Constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within the said Territory of Colorado as elsewhere within the United States.

SEC. 17. *And be it further enacted*, That the President of the United States, by and with the advice and consent of the Senate, shall be and he is hereby authorized to appoint a surveyor-general for Colorado, who shall locate his office at such place as the Secretary of the Interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk-hire, office-rent, fuel, and incidental expenses shall be the same as those of the surveyor-general of New Mexico, under the direction of the Secretary of the Interior. and such instructions as he may from time to time deem it advisable to give him.

APPROVED, February 28, 1861.

ENABLING ACT FOR COLORADO—1875.*

[FORTY-THIRD CONGRESS, SECOND SESSION.]

An Act to enable the people of Colorado to form a constitution and State government, and for the admission of the said State into the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the Territory of Colorado included in the boundaries hereinafter designated be, and they are hereby, authorized to form for themselves, out of said Territory, a State government, with the name of the State of Colorado; which State, when formed, shall be admitted into the Union upon an equal footing with the original States in all respects whatsoever, as hereinafter provided.

SEC. 2. That the said State of Colorado shall consist of all the territory included within the following boundaries, to wit: Commencing on the thirty-seventh parallel of north latitude, where the twenty-fifth meridian of longitude west from Washington crosses the same; thence north, on said meridian, to the forty-first parallel of north latitude; thence along said parallel west to the thirty-second meridian of longitude west from Washington; thence south on said meridian to the thirty-seventh parallel of north latitude; thence along said thirty-seventh parallel of north latitude to the place of beginning.

SEC. 3. That all persons qualified by law to vote for representatives to the general assembly of said Territory, at the date of the passage of this act, shall be qualified to be elected, and they are hereby authorized to vote for and choose representatives to form a convention under such rules and regulations as the governor of said Territory, the chief-justice, and the United States attorney thereof may prescribe; and also to vote upon the acceptance or rejection of such constitution as may be formed by said convention, under such rules and regulations as said convention may prescribe; and the aforesaid representatives to form the aforesaid convention shall be apportioned among the several counties in said Territory in proportion to the vote polled in each of said counties at the last general election, as near as may be; and said apportionment shall be made for said Territory by the governor, United States district attorney, and chief-justice thereof, or any two of them; and the governor of said Territory shall, by proclamation, order an election of the representatives aforesaid to be held throughout the Territory at such time as shall be fixed by the governor, chief-justice, and United States attorney, or any two of them, which proclamation shall be issued within ninety days next after the first day of September, eighteen hundred and

* An enabling act for the admission of Colorado into the Union was passed March 21, 1864. A State constitution, formed by a convention held in 1864, under the provisions of this act, was submitted to the voters of Colorado, and was rejected; but a second constitution, formed by a second convention, held in August, 1865, was submitted to the voters of Colorado on the 5th of September, 1865, and was ratified by a majority of 105. Congress at the ensuing session passed an act for the admission of Colorado into the Union, which was vetoed by President Johnson May 15, 1866. A second bill passed by Congress for the admission of Colorado into the Union was also vetoed by President Johnson January 29, 1867.



seventy-five, and at least thirty days prior to the time of said election; and such election shall be conducted in the same manner as is prescribed by the laws of said Territory regulating elections therein for members of the house of representatives; and the number of members to said convention shall be the same as now constitutes both branches of the legislature of the aforesaid Territory.

SEC. 4. That the members of the convention thus elected shall meet at the capital of said Territory, on a day to be fixed by said governor, chief-justice, and United States attorney, not more than sixty days subsequent to the day of election, which time of meeting shall be contained in the aforesaid proclamation mentioned in the third section of this act, and, after organization, shall declare, on behalf of the people of said Territory, that they adopt the Constitution of the United States; whereupon the said convention shall be, and is hereby, authorized to form a constitution and State government for said Territory: *Provided*, That the constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except Indians not taxed, and not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence: *And provided further*, That said convention shall provide, by an ordinance irrevocable without the consent of the United States and the people of said State, first, that perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested, in person or property, on account of his or her mode of religious worship; secondly, that the people inhabiting said Territory, do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United States, and that the lands belonging to citizens of the United States residing without the said State shall never be taxed higher than the lands belonging to residents thereof, and that no taxes shall be imposed by the State on lands or property therein belonging to, or which may hereafter be purchased by, the United States.

SEC. 3. That in case the constitution and State government shall be formed for the people of said Territory of Colorado, in compliance with the provisions of this act, said convention forming the same shall provide, by ordinance, for submitting said constitution to the people of said State for their ratification or rejection, at an election, to be held at such time, in the month of July, eighteen hundred and seventy-six, and at such places and under such regulations as may be prescribed by said convention, at which election the lawful voters of said new State shall vote directly for or against the proposed constitution; and the returns of said election shall be made to the acting governor of the Territory; who, with the chief-justice and United States attorney of said Territory, or any two of them, shall canvass the same; and if a majority of legal votes shall be cast for said constitution in said proposed State, the said acting governor shall certify the same to the President of the United States, together with a copy of said constitution and ordinances; whereupon it shall be the duty of the President of the United States to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, without any further action whatever on the part of Congress.

SEC. 6. That until the next general census said State shall be entitled to one Representative in the House of Representatives of the United States, which Representative, together with the governor and State and other officers provided for in said constitution, shall be elected on a day subsequent to the adoption of the constitution, and to be fixed by said constitutional convention; and until said State officers are elected and qualified under the provisions of the constitution, the territorial officers shall continue to discharge the duties of their respective offices.

SEC. 7. That sections numbered sixteen and thirty-six in every township, and where such sections have been sold or otherwise disposed of by any act of Congress, other lands, equivalent thereto, in legal subdivisions of not more than one quarter-section, and as contiguous as may be, are hereby granted to said State for the support of common schools.

SEC. 8. That, provided the State of Colorado shall be admitted into the Union in accordance with the foregoing provisions of this act, fifty entire sections of the unappropriated public lands within said State, to be selected and located by direction of

the legislature thereof, and with the approval of the President, on or before the first day of January, eighteen hundred and seventy-eight, shall be, and are hereby, granted, in legal subdivisions of not less than one quarter-section, to said State for the purpose of erecting public buildings at the capital of said State for legislative and judicial purposes, in such manner as the legislature shall prescribe.

SEC. 9. That fifty other entire sections of land as aforesaid, to be selected and located and with the approval as aforesaid, in legal subdivisions as aforesaid, shall be, and they are hereby, granted to said State for the purpose of erecting a suitable building for a penitentiary or State prison in the manner aforesaid.

SEC. 10. That seventy-two other sections of land shall be set apart and reserved for the use and support of a State university, to be selected and approved in manner as aforesaid, and to be appropriated and applied as the legislature of said State may prescribe for the purpose named and for no other purpose.

SEC. 11. That all salt-springs within said State, not exceeding twelve in number, with six sections of land adjoining, and as contiguous as may be to each, shall be granted to said State for its use, the said land to be selected by the governor of said State within two years after the admission of the State, and when so selected to be used and disposed of on such terms, conditions, and regulations as the legislature shall direct: *Provided*, That no salt-spring or lands the right whereof is now vested in any individual or individuals, or which hereafter shall be confirmed or adjudged to any individual or individuals, shall by this act be granted to said State.

SEC. 12. That five per centum of the proceeds of the sales of agricultural public lands lying within said State which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State for the purpose of making such internal improvements within said State as the legislature thereof may direct: *Provided*, That this section shall not apply to any lands disposed of under the homestead laws of the United States, or to any lands now or hereafter reserved for public or other uses.

SEC. 13. That any balance of the appropriations for the legislative expenses of said Territory of Colorado remaining unexpended shall be applied to and used for defraying the expenses of said convention, and for the payment of the members thereof, under the same rules and regulations and rates as are now provided by law for the payment of the territorial legislature.

SEC. 14. That the two sections of land in each township herein granted for the support of common schools shall be disposed of only at public sale and at a price not less than two dollars and fifty cents per acre, the proceeds to constitute a permanent school-fund, the interest of which to be expended in the support of common schools,

SEC. 15. That all mineral-lands shall be excepted from the operation and grants of this act.

APPROVED, March 3, 1875.

CONSTITUTION OF COLORADO.*

PREAMBLE.

We, the people of Colorado, with profound reverence for the Supreme Ruler of the Universe, in order to form a more independent and perfect government, establish justice, insure tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the State of Colorado.

ARTICLE I.

BOUNDARIES.

The boundaries of the State of Colorado shall be as follows: Commencing on the thirty-seventh parallel of north latitude, where the twenty-fifth meridian of longitude

* This constitution was adopted at a convention which met at Denver, December 20, 1875, and completed its labors March 14, 1876. It was submitted to the people of Colorado and ratified July 1, 1876. The President of the United States issued his proclamation, August 1. 1876, declaring that the fundamental conditions imposed by Congress had been ratified, and that the admission of the State into the Union was complete.



west from Washington crosses the same; thence north on said meridian to the forty-first parallel of north latitude; thence along said parallel west to the thirty-second meridian of longitude west from Washington; then south on said meridian to the thirty-seventh parallel of north latitude; thence along said thirty-seventh parallel of north latitude to the place of beginning.

ARTICLE II.

BILL OF RIGHTS.

In order to assert our rights, acknowledge our duties, and proclaim the principles upon which our government is founded, we declare—

SECTION 1. That all political power is vested in and derived from the people; that all government, of right, originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

SEC. 2. That the people of this State have the sole and exclusive right of governing themselves, as a free, sovereign, and independent State, and to alter and abolish their constitution and form of government whenever they may deem it necessary to their safety and happiness, provided such change be not repugnant to the Constitution of the United States.

SEC. 3. That all persons have certain natural, essential, and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property, and of seeking and obtaining their safety and happiness.

SEC. 4. That the free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed; and no person shall be denied any civil or political right, privilege, or capacity on account of his opinions concerning religion; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the good order, peace, or safety of the State. No person shall be required to attend or support any ministry or place of worship, religious sect or denomination against his consent; nor shall any preference be given by law to any religious denomination or mode of worship.

SEC. 5. That all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

SEC. 6. That courts of justice shall be open to every person, and a speedy remedy afforded for every injury to person, property, or character; and that right and justice should be administered without sale, denial, or delay.

SEC. 7. That the people shall be secure in their persons, papers, homes, and effects from unreasonable searches and seizures; and no warrant to search any place or seize any person or thing shall issue without describing the place to be searched, or the person or thing to be seized, as near as may be, nor without probable cause, supported by oath or affirmation, reduced to writing.

SEC. 8. That, until otherwise provided by law, no person shall, for a felony, be proceeded against criminally, otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. In all other cases offences shall be prosecuted criminally by indictment or information.

SEC. 9. That treason against the State can consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; that no person can be convicted of treason unless on the testimony of two witnesses to the same overt act, or on his confession in open court; that no person can be attainted of treason or felony by the general assembly; that no conviction can work corruption of blood or forfeiture of estate; that the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death.

SEC. 10. That no law shall be passed impairing the freedom of speech; that every person shall be free to speak, write, or publish whatever he will on any subject, being responsible for all abuse of that liberty; and that all suits and prosecutions for libel, the truth thereof may be given in evidence, and the jury, under the direction of the court, shall determine the law and the fact.

SEC. 11. That no *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges, franchises, or immunities, shall be passed by the general assembly.

SEC. 12. That no person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law, or in cases of tort or where there is strong presumption of fraud.

SEC. 13. That the right of no person to keep and bear arms in defence of his home, person, and property, or in aid of the civil power when thereto legally summoned, shall be called in question; but nothing herein contained shall be construed to justify the practice of carrying concealed weapons.

SEC. 14. That private property shall not be taken for private use unless by consent of the owner, except for private ways of necessity, and except for reservoirs, drains, flumes, or ditches on or across the lands of others, for agricultural, mining, milling, domestic, or sanitary purposes.

SEC. 15. That private property shall not be taken or damaged, for public or private use, without just compensation. Such compensation shall be ascertained by a board of commissioners, of not less than three freeholders, or by a jury, when required by the owner of the property, in such manner as may be prescribed by law, and until the same shall be paid to the owner, or into court for the owner, the property shall not be needlessly disturbed, or the proprietary rights of the owner therein divested; and whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and determined as such without regard to any legislative assertion that the use is public.

SEC. 16. That in criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed.

SEC. 17. That no person shall be imprisoned for the purpose of securing his testimony in any case longer than may be necessary in order to take his deposition. I he can give security he shall be discharged; if he cannot give security, his deposition shall be taken by some judge of the supreme, district, or county court, at the earliest time he can attend, at some convenient place by him appointed for that purpose, of which time and place the accused and the attorney prosecuting for the people shall have reasonable notice. The accused shall have the right to appear in person and by counsel. If he have no counsel the judge shall assign him one in that behalf only. On the completion of such examination the witness shall be discharged on his own recognizance, entered in before said judge, but such deposition shall not be used if, in the opinion of the court, the personal attendance of the witness might be procured by the prosecution, or is procured by the accused. No exception shall be taken to such deposition as to matters of form.

SEC. 18. That no person shall be compelled to testify against himself in a criminal case, nor shall any person be twice put in jeopardy for the same offence. If the jury disagree, or if the judgment be arrested after verdict, or if the judgment be reversed for error in law, the accused shall not be deemed to have been in jeopardy.

SEC. 19. That all persons shall be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great.

SEC. 20. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 21. That the privilege of the writ of *habeas corpus* shall never be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 22. That the military shall always be in strict subordination to the civil power; that no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

SEC. 23. The right of trial by jury shall remain inviolate in criminal cases; but a jury in civil cases in all courts, or in criminal cases in courts not of record, may consist of less than twelve men, as may be prescribed by law. Hereafter a grand jury

shall consist of twelve men, any nine of whom concurring may find an indictment; *Provided*, The general assembly may change, regulate, or abolish the grand-jury system.

SEC. 24. That the people have the right peaceably to assemble for the common good, and to apply to those invested with the powers of government for redres sof grievances, by petition or remonstrance.

SEC. 25. That no person shall be deprived of life, liberty, or property without due process of law.

SEC. 26. That there shall never be in this State either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

SEC. 27. Aliens, who are or who may hereafter become *bona-fide* residents of this State, may acquire, inherit, possess, enjoy, and dispose of property, real and personal, as native-born citizens.

SEC. 28. The enumeration in this constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

ARTICLE III.

DISTRIBUTION OF POWERS.

The powers of the government of this State are divided into three distinct departments, the legislative, executive, and judicial, and no person, or collection of persons, charged with the exercise of powers properly belonging to one of these departments shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of state, State treasurer, attorney-general, and superintendent of public instruction, each of whom shall hold his office for the term of two years, beginning on the second Tuesday of January next after his election: *Provided*, That the terms of office of those chosen at the first election held under this constitution shall begin on the day appointed for the first meeting of the general assembly. The officers of the executive department, excepting the lieutenant-governor, shall, during their term of offices, reside at the seat of government, where they shall keep the public records, books, and papers. They shall perform such duties as are prescribed by this constitution or by law.

SEC. 2. The supreme executive power of the State shall be vested in the governor, who shall take care that the laws be faithfully executed.

SEC. 3. The officers named in section one of this article shall be chosen on the day of the general election by the qualified electors of the State. The returns of every election for said officers shall be sealed up and transmitted to the secretary of state, directed to the speaker of the house of representatives, who shall immediately, upon the organization of the house, and before proceeding to other business, open and publish the same in the presence of a majority of the members of both houses of the general assembly, who shall for that purpose assemble in the house of representatives. The person having the highest number of votes for either of said offices shall be declared duly elected, but if two or more have an equal and the highest number of votes for the same office, one of them shall be chosen thereto by the two houses, on joint ballot.. Contested elections for the said offices shall be determined by the two houses, on joint ballot, in such manner as may be prescribed by law.

SEC. 4. No person shall be eligible to the office of governor, lieutenant-governor, or superintendent of public instruction, unless he should have attained the age of thirty years, nor to the office of auditor of state, secretary of state, or State treasurer, unless he shall heve attained the age of twenty-five years, nor to the office of attorney-general unless he shall have attained the age of twenty-five years, and be a licensed

attorney of the supreme court of the State, or of the Territory of Colorado, in good standing. At the first election under this constitution, any person being a qualified elector at the time of the adoption of this constitution, and having the qualifications above herein prescribed for any one of said officers, shall be eligible thereto; but thereafter no person shall be eligible to any one of said offices, unless, in addition to the qualifications above prescribed therefor, he shall be a citizen of the United States, and have resided within the limits of the State two years next preceding his election.

SEC. 5. The governor shall be commander-in-chief of the military forces of the State, except when they shall be called into actual service of the United States. He shall have power to call out the militia to execute the laws, suppress insurrection, or repel invasion.

SEC. 6. The governor shall nominate, and by and with the consent of the senate appoint, all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided for, and may remove any such officer for incompetency, neglect of duty, or malfeasance in office. If during the recess of the senate a vacancy occur in any such office, the governor shall appoint some fit person to discharge the duties thereof until the next meeting of the senate, when he shall nominate some person to fill such office. If the office of auditor of state, State treasurer, secretary of state, attorney-general, or superintendent of public instruction shall be vacated by death, resignation, or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law. The senate in deliberating upon executive nominations may sit with closed doors, but in acting upon nominations they shall sit with open doors, and the vote shall be taken by ayes and noes, which shall be entered upon the journal.

SEC. 7. The governor shall have power to grant reprieves, commutations, and pardons after conviction, for all offences except treason, and except in case of impeachment, subject to such regulations as may be prescribed by law relative to the manner of applying for pardons, but he shall in every case, where he may exercise this power, send to the general assembly, at its first session thereafter, a transcript of the petition, all proceedings, and the reasons for his action.

SEC. 8. The governor may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices, which information shall be given upon oath whenever so required; he may also require information in writing at any time, under oath, from all officers and managers of State institutions upon any subject relating to the condition, management, and expenses of their respective offices and institutions. The governor shall, at the commencement of each session, and from time to time, by message, give to the general assembly information of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall also send to the general assembly a statement, with vouchers, of the expenditures of all moneys belonging to the State and paid out by him. He shall also, at the commencement of each session, present estimates of the amount of money required to be raised by taxation for all purposes of the State.

SEC. 9. The governor may, on extraordinary occasions, convene the general assembly, by proclamation, stating therein the purpose for which it is assembled; but at such special session no business shall be transacted other than that specially named in the proclamation. He may, by proclamation, convene the Senate in extraordinary session for the transaction of executive business.

SEC. 10. The governor, in case of a disagreement between the two houses as to the time of adjournment, may, upon the same being certified to him by the house last moving adjournment, adjourn the general assembly to a day not later than the first day of the next regular session.

SEC. 11. Every bill passed by the general assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it, with his objections, to the house in which it originated, which house shall enter the objections at large upon its



journal, and proceed to reconsider the bill. If then two-thirds of the members elected agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members elected to that house, it shall become a law, notwithstanding the objections of the governor. In all such cases the vote of each house shall be determined by ayes and noes, to be entered upon the journal. If any bill shall not be returned by the governor within ten days after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the general assembly shall, by their adjournment, prevent its return, in which case it shall be filed, with his objections, in the office of the secretary of state, within thirty days after such adjournment, or else become a law.

SEC. 12. The governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and part or parts of the bill approved shall be law, and the item or items disapproved shall be void, unless enacted in manner following: If the general assembly be in session, he shall transmit to the house in which the bill originated a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

LIEUTENANT-GOVERNOR.

SEC. 13. In case of the death, impeachment, or conviction of felony or infamous misdemeanor, failure to qualify, resignation, absence from the State, or other disability of the governor, the powers, duties, and emoluments of the office, for the residue of the term, or until the disability be removed, shall devolve upon the lieutenant-governor.

SEC. 14. The lieutenant-governor shall be president of the senate, and shall vote only when the senate is equally divided. In case of the absence, impeachment, or disqualification from any cause of the lieutenant-governor, or when he shall hold the office of governor, then the president *pro tempore* of the senate shall perform the duties of the lieutenant-governor until the vacancy is filled or the disability removed.

SEC. 15. In case of the failure to qualify in his office, death, resignation, absence from the State, impeachment, conviction of felony, or infamous misdemeanor, or disqualification from any cause, of both the governor and lieutenant-governor, the duties of the governor shall devolve on the president of the senate *pro tempore*, until such disqualification of either the governor or lieutenant-governor be removed, or the vacancy be filled; and if the president of the senate, for any of the above-named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house.

SEC. 16. An account shall be kept by the officers of the executive department and of all public institutions of the State of all moneys received by them severally from all sources, and for every service performed, and of all moneys disbursed by them severally, and a semi-annual report thereof shall be made to the governor, under oath.

SEC. 17. The officers of the executive department, and of all public institutions of the State, shall, at least twenty days preceding each regular session of the general assembly, make full and complete report of their actions to the governor, who shall transmit the same to the general assembly.

SEC. 18. There shall be a seal of the State, which shall be kept by the secretary of state, and shall be called the "Great Seal of the State of Colorado." The seal of the Territory of Colorado, as now used, shall be the seal of the State until otherwise provided by law.

SEC. 19. The officers named in section one of this article shall receive for their services a salary to be established by law, which shall not be increased or diminished during their official terms. It shall be the duty of all such officers to collect in advance all fees prescribed by law for services rendered by them severally, and pay the same into the State treasury.

SEC. 20. The superintendent of public instruction shall be *ex officio* State librarian.

SEC. 21. Neither the State treasurer nor State auditor shall be eligible for re-election as his own immediate successor.

ARTICLE V.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power shall be vested in the general assembly, which shall consist of a senate and a house of representatives, both to be elected by the people.

SEC. 2. An election for members of the general assembly shall be held on the first Tuesday in October, in the years of our Lord 1876 and 1878, and in each alternate year thereafter, on such day, at such places in each county as now are, or hereafter may be, provided by law. The first election for members of the general assembly under the State organization shall be conducted in the manner prescribed by the laws of Colorado Territory regulating elections for members of the legislative assembly thereof. When vacancies occur in either house the governor, or person exercising the powers of governor, shall issue writs of election to fill such vacancies.

SEC. 3. Senators shall be elected for the term of four years, except as hereinafter provided, and representatives for the term of two years.

SEC. 4. No person shall be a representative or senator who shall not have attained the age of twenty-five years, who shall not be a citizen of the United States, who shall not for at least twelve months next preceding his election have resided within the Territory included in the limits of the county or district in which he shall be chosen: *Provided*, That any person who at the time of the adoption of this constitution was a qualified elector under the territorial laws, shall be eligible to the first general assembly.

SEC. 5. The senators, at their first session, shall be divided into two classes. Those elected in districts designated by even numbers shall constitute one class; those elected in districts designated by odd numbers shall constitute the other class, except that senators elected in each of the districts having more than one senator shall be equally divided between the two classes. The senators of one class shall hold for two years; those of the other class shall hold for four years: to be decided by lot between the two classes, so that one-half of the senators, as near as practicable, may be biennially chosen forever thereafter.

SEC. 6. Each member of the first general assembly, as a compensation for his services, shall receive four dollars for each day's attendance, and fifteen cents for each mile necessarily travelled in going to and returning from the seat of government; and shall receive no other compensation, perquisite, or allowance whatsoever. No session of the general assembly, after the first, shall exceed forty days. After the first session the compensation of the members of the general assembly shall be as provided by law: *Provided*, That no general assembly shall fix its own compensation.

SEC. 7. The general assembly shall meet at 12 o'clock, noon, on the first Wednesday in November, A. D. 1876; and at 12 o'clock, noon, on the first Wednesday in January, A. D. 1879, and at 12 o'clock, noon, on the first Wednesday in January of each alternate year forever thereafter, and at other times when convened by the governor. The term of service of the members thereof shall begin on the first Wednesday of November next after their election, until otherwise provided by law.

SEC. 8. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State; and no member of Congress, or other person holding any office (except of attorney at law, notary public, or in the militia,) under the United States, or this State, shall be a member of either house during his continuance in office.

SEC. 9. No member of either house shall, during the term for which he may have been elected, receive any increase of salary or mileage, under any law passed during such term.

SEC. 10. The senate shall, at the beginning and close of each regular session, and at such other times as may be necessary, elect one of its members president *pro tempore*. The house of representatives shall elect one of its members as speaker. Each house shall choose its other officers, and shall judge of the election and qualification of its members.

SEC. 11. A majority of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and compel the attendance of absent members.

SEC. 12. Each house shall have power to determine the rules of its proceedings, and punish its members or other persons for contempt or disorderly behavior in its presence; to enforce obedience to its process; to protect its members against violence, or offers of bribes, or private solicitation, and, with the concurrence of two-thirds, to expel a member, but not a second time for the same cause; and shall have all other powers necessary for the legislature of a free State. A member, expelled for corruption, shall not thereafter be eligible to either house of the same general assembly, and punishment for contempt or disorderly behavior shall not bar an indictment for the same offence.

SEC. 13. Each house shall keep a journal of its proceedings, and may in its discre tion, from time to time, publish the same, except such parts as require secrecy, and the ayes and noes on any question shall, at the desire of any two members, be entered on the journal.

SEC. 14. The sessions of each house, and of the committees of the whole, shall be open, unless when the business is such as ought to be kept secret.

SEC. 15. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 16. The members of the general assembly shall, in all cases except treason, felony, violation of their oath of office, and breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 17. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

SEC. 18. The style of the laws of this State shall be: "*Be it enacted by the general assembly of the State of Colorado.*"

SEC. 19. No act of the general assembly shall take effect until ninety days after its passage, unless in case of emergency, (which shall be expressed in the preamble or body of the act,) the general assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct. No bill except the general appropriation for the expenses of the government only, introduced in either house of the general assembly after the first twenty-five days of the session shall become a law.

SEC. 20. No bill shall be considered or become a law unless referred to a committee, returned therefrom, and printed for the use of the members.

SEC. 21. No bill, except general appropriation bills, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

SEC. 22. Every bill shall be read at length, on three different days, in each house; all substantial amendments made thereto shall be printed for the use of the members, before the final vote is taken on the bill; and no bill shall become a law except by vote of a majority of all the members elected to each house, nor unless on its final passage the vote be taken by ayes and noes, and the names of those voting be entered on the journal.

SEC. 23. No amendment to any bill by one house shall be concurred in by the other, nor shall the report of any committee of conference be adopted in either house, except by a vote of a majority of the members elected thereto, taken by ayes and noes, and the names of those voting recorded upon the journal thereof.

SEC. 24. No law shall be revived, or amended, or the provisions thereof extended or conferred by reference to its title only, but so much thereof as is revived, amended, extended, or conferred shall be re-enacted and published at length.

SEC. 25. The general assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: For granting divorces; laying out, opening, altering, or working roads or highways; vacating roads, town-plats, streets, alleys, and public grounds; locating or changing county-seats; regulating county or township affairs; regulating the practice in courts of justice; regulating the jurisdiction and duties of justices of the peace, police magistrates and constables; changing the rules of evi-

dence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age; for limitation of civil actions or giving effect to informal or invalid deeds; summoning or impanelling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election, or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; the protection of game or fish; chartering or licensing ferries or toll-bridges; remitting fines, penalties, or forfeitures; creating, increasing, or decreasing fees, percentage, or allowances of public officers; changing the law of descent; granting to any corporation, association, or individual the right to lay down railroad-tracks; granting to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise whatever. In all other cases, where a general law can be made applicable, no special law shall be enacted.

SEC. 26. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the general assembly, after their titles shall have been publicly read, immediately before signing; and the fact of signing shall be entered on the journal.

SEC. 27. The general assembly shall prescribe by law the number, duties, and compensation of the officers and employés of each house; and no payment shall be made from the State treasury, or be in any way authorized to any person, except to an acting officer or employé elected or appointed in pursuance of law.

SEC. 28. No bill shall be passed giving any extra compensation to any public officer, servant or employé, agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim made against the State without previous authority of law.

SEC. 29. All stationery, printing, paper, and fuel used in the legislative and other departments of government, shall be furnished; and the printing and binding and distributing of the laws, journals, department reports, and other printing and binding; and the repairing and furnishing the halls and rooms used for the meeting of the general assembly and its committees, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price and under such regulations as may be prescribed by law. No member or officer of any department of the government shall be in any way interested in any such contract; and all such contracts shall be subject to the approval of the governor and State treasurer.

SEC. 30. Except as otherwise provided in this constitution, no law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment: *Provided*, This shall not be construed to forbid the general assembly to fix the salary or emoluments of those first elected or appointed under this constitution.

SEC. 31. All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in case of other bills.

SEC. 32. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative, and judicial departments of the State, interest on the public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 33. No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof.

SEC. 34. No appropriation shall be made for charitable, industrial, educational, or benevolent purposes to any person, corporation, or community not under the absolute control of the State, nor to any denominational or sectarian institution or association.

SEC. 35. The general assembly shall not delegate to any special commission, private corporation, or association any power to make, supervise, or interfere with any municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes, or to perform any municipal function whatever.

SEC. 36. No act of the general assembly shall authorize the investment of trust-funds by executors, administrators, guardians, or other trustees, in the bonds or stock of any private corporation.

SEC. 37. The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such a manner as shall be provided by law.

SEC. 38. No obligation or liability of any person, association, or corporation, held or owned by the State, or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released, or postponed, or in any way diminished by the general assembly, nor shall such liability or obligation be extinguished except by payment thereof into the proper treasury.

SEC. 39. Every order, resolution, or vote to which the concurrence of both houses may be necessary, except on the question of adjournment, or relating solely to the transaction of business of the two houses, shall be presented to the governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 40. If any person elected to either house of the general assembly shall offer or promise to give his vote or influence in favor of or against any measure or proposition, pending or proposed to be introduced into the general assembly, in consideration or upon condition that any other person elected to the same general assembly will give or will promise or assent to give his vote or influence in favor of or against any other measure or proposition, pending or proposed to be introduced in such general assembly, the person making such offer or promise shall be deemed guilty of solicitation and bribery. If any member of the general assembly shall give his vote or influence for or against any measure or proposition pending in such general assembly, or offer, promise, or assent so to do, upon condition that any other member will give or will promise or assent to give his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced in such general assembly, or in consideration that any other member hath given his vote or influence for or against any other measure or proposition in such general assembly, he shall be deemed guilty of bribery; and any member of the general assembly, or person elected thereto, who shall be guilty of either of such offences shall be expelled, and shall not be thereafter eligible to the same general assembly; and, on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

SEC. 41. Any person who shall, directly or indirectly, offer, give, or promise any money or thing of value, testimonial, privilege, or personal advantage to any executive or judicial officer or member of the general assembly to influence him in the performance of any of his public or official duties, shall be deemed guilty of bribery, and be punished in such manner as shall be provided by law.

SEC. 42. The offence of corrupt solicitation of members of the general assembly, or of public officers of the State, or of any municipal division thereof, and any occupation or practice of solicitation of such members or officers to influence their official action, shall be defined by law, and shall be punished by fine and imprisonment.

SEC. 43. A member who has a personal or private interest in any measure or bill proposed or pending before the general assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon.

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

SEC. 44. One Representative in the Congress of the United States shall be elected from the State at large at the first election under this constitution, and thereafter at such times and places and in such manner as may be prescribed by law. When a new apportionment shall be made by Congress, the general assembly shall divide the State into congressional districts accordingly.

SEC. 45. The general assembly shall provide by law for an enumeration of the inhabitants of the State in the year of our Lord 1885, and every tenth year thereafter; and at the session next following such enumeration, and also at the session next following an enumeration made by the authority of the United States, shall revise and adjust the apportionment for senators and representatives on the basis of such enumeration, according to ratios to be fixed by law.

SEC. 46. The senate shall consist of twenty-six, and the house of representatives of forty-nine members, which number shall not be increased until the year of our Lord

one thousand eight hundred and ninety, after which time the general assembly may increase the number of senators and representatives, preserving, as near as may be, the present proportion as to the number in each house: *Provided*, That the aggregate number of senators and representatives shall never exceed one hundred.

SEC. 47. Senatorial and representative districts may be altered from time to time, as public convenience may require. When a senatorial or representative district shall be composed of two or more counties, they shall be contiguous, and the district as compact as may be. No county shall be divided in the formation of a senatorial or representative district.

SEC. 48. Until the State shall be divided into senatorial districts, in accordance with the provisions of this article, said districts shall be constituted and numbered as follows:

The county of Weld shall constitute the first district, and be entitled to one senator.

The county of Larimer shall constitute the second district, and be entitled to one senator.

The county of Boulder shall constitute the third district, and be entitled to two senators.

The county of Gilpin shall constitute the fourth district, and be entitled to one senator.

The counties of Gilpin, Summit, and Grand shall constitute the fifth district, and be entitled to one senator.

The county of Clear Creek shall constitute the sixth district, and be entitled to two senators.

The county of Jefferson shall constitute the seventh district, and be entitled to one senator.

The county of Arapahoe shall constitute the eighth district, and be entitled to four senators.

The counties of Elbert and Bent shall constitute the ninth district, and be entitled to one senator.

The county of El Paso shall constitute the tenth district, and be entitled to one senator.

The county of Douglas shall constitute the eleventh district, and be entitled to one senator.

The county of Park shall constitute the twelfth district, and be entitled to one senator.

The counties of Lake and Saguache shall constitute the thirteenth district, and be entitled to one senator.

The county of Fremont shall constitute the fourteenth district, and be entitled to one senator.

The county of Pueblo shall constitute the fifteenth district, and be entitled to one senator.

The county of Huerfano shall constitute the sixteenth district, and be entitled to one senator.

The county of Las Animas shall constitute the seventeenth district, and be entitled to two senators.

The county of Costilla shall constitute the eighteenth district, and be entitled to one senator.

The county of Conejos shall constitute the nineteenth district, and be entitled to one senator.

The counties of Rio Grande, Hinsdale, La Plata, and San Juan shall constitute the twentieth district, and be entitled to one senator.

SEC. 49. Until an apportionment of representatives be made, in accordance with the provisions of this article, they shall be divided among the several counties of the State in the following manner: The county of Arapahoe shall have seven; the counties of Boulder and Clear Creek, each, four; the counties of Gilpin and Las Animas, each, three; the counties of El Paso, Fremont, Huerfano, Jefferson, Pueblo, and Weld, each, two; the counties of Bent, Costilla, Conejos, Douglas, Elbert, Grand, Hinsdale, Larimer, La Plata, Lake, Park, Rio Grande, Summit, Saguache, and San Juan, each, one; and the counties of Costilla and Conejos, jointly, one.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial powers of the State, as to matters of law and equity, except as in this constitution otherwise provided, shall be vested in a supreme court, district courts, county courts, justices of the peace, and such other courts as may be created by law for cities and incorporated towns.

Supreme court.

SEC. 2. The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, and shall have a general superintending control over all inferior courts, under such regulations and limitations as may be prescribed by law.

SEC. 3. It shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, injunction, and other original and remedial writs, with authority to hear and determine the same.

SEC. 4. At least two terms of the supreme court shall be held each year, at the seat of government.

SEC. 5. The supreme court shall consist of three judges, a majority of whom shall be necessary to form a quorum or pronounce a decision.

SEC. 6. The judges of the supreme court shall be elected by electors of the State at large, as hereinafter provided.

SEC. 7. The term of office of the judges of the supreme court, except as in this article otherwise provided, shall be nine years.

SEC. 8. The judges of the supreme court shall, immediately after the first election under this constitution, be classified by lot, so that one shall hold his office for the term of three years, one for the term of six years, and one for the term of nine years. The lot shall be drawn by the judges, who shall for that purpose assemble at the seat of government, and they shall cause the result thereof to be certified to the secretary of the Territory, and filed in his office. The judge having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall be the chief justice, and shall preside at all terms of the supreme court, and, in case of his absence, the judge having in like manner the next shortest term to serve shall preside in his stead.

SEC. 9. There shall be a clerk of the supreme court, who shall be appointed by the judges thereof, and shall hold his office during the pleasure of said judges, and whose duties and emoluments shall be as prescribed by law and by the rules of the supreme court.

SEC. 10. No person shall be eligible to the office of judge of the supreme court unless he be learned in the law, be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in this State or Territory at least two years next preceding his election.

District courts.

SEC. 11. The district courts shall have original jurisdiction of all causes, both at law and in equity, and such appellate jurisdiction as may be conferred by law. They shall have original jurisdiction to determine all controversies upon relation of any person on behalf of the people concerning the rights, duties, and liabilities of railroad, telegraph, or toll-road companies or corporations.

SEC. 12. The State shall be divided into judicial districts, in each of which there shall be elected by the electors thereof one judge of the district court therein, whose term of office shall be six years. The judges of the district courts may hold courts for each other, and shall do so when required by law.

SEC. 13. Until otherwise provided by law, said districts shall be four in number, and constituted as follows, viz:

First district.—The counties of Boulder, Jefferson, Gilpin, Clear Creek, Summit, and Grand.

Second district.—The counties of Arapahoe, Douglas, Elbert, Weld, and Larimer.



Third district.—The counties of Park, El Paso, Fremont, Pueblo, Bent, Las Animas, and Huerfano.

Fourth district.—The counties of Costilla, Conejos, Rio Grande, San Juan, La Plata, Hinsdale, Saguache, and Lake.

SEC. 14. The general assembly may, after the year 1880, (whenever two-thirds of the members of each house shall concur therein,) but not oftener than once in six years, increase the number of the judicial districts and the judges thereof; such districts shall be formed of compact territory, and bounded by county-lines; but such increase or change in the boundaries of a district shall not work the removal of any judge from his office during the term for which he shall have been elected or appointed.

SEC. 15. The judges of the district court first elected shall be chosen at the first general election. The general assembly may provide that after the year 1878 the election of the judges of the supreme, district, and county courts, and the district attorneys, or any of them, shall be on a different day from that on which an election is held for any other purpose, and for that purpose may extend or abridge the term of office of any such officers then holding, but not in any case more than six months. Until otherwise provided by law, such officers shall be elected at the time of holding the general elections. The terms of office of all judges of the district court elected in the several districts throughout the State shall expire on the same day; and the terms of office of the district attorneys elected in the several districts throughout the State shall, in like manner, expire on the same day.

SEC. 16. No person shall be eligible to the office of district judge unless he be learned in the law, be at least thirty years old, and a citizen of the United States, nor unless he shall have resided in the State or Territory at least two years next preceding his election, nor unless he shall, at the time of his election, be an elector within the judicial district for which he is elected: *Provided*, That at the first election any person of the requisite age and learning, and who is an elector of the Territory of Colorado, under the laws thereof, at the time of the adoption of this constitution, shall be eligible to the office of judge of the district court of the judicial district within which he is an elector.

SEC. 17. The time of holding courts within the said districts shall be as provided by law; but at least one term of the district court shall be held annually in each county, except in such counties as may be attached, for judicial purposes, to another county wherein such courts are so held. This shall not be construed to prevent the holding of special terms, under such regulations as may be provided by law.

SEC. 18. The judges of the supreme and district courts shall each receive such salary as may be provided by law; and no such judge shall receive any other compensation, perquisite, or emolument for or on account of his office, in any form whatever, nor act as attorney or counselor at law.

SEC. 19. There shall be a clerk of the district court in each county wherein a term is held, who shall be appointed by the judge of the district, to hold his office during the pleasure of the judge. His duties and compensation shall be as provided by law and regulated by the rules of the court.

SEC. 20. Until the general assembly shall provide by law for fixing the terms of the courts aforesaid, the judges of the supreme and district courts, respectively, shall fix the terms thereof.

District attorneys.

SEC. 21. There shall be elected by the qualified electors of each judicial district, at each regular election for judges of the supreme court, a district attorney for such district, whose term of office shall be three years, and whose duties and compensations shall be as provided by law. No person shall be eligible to the office of district attorney who shall not, at the time of his election, be at least twenty-five years of age, and possess all the other qualifications for judges of district courts, as prescribed in this article.

County courts.

SEC. 22. There shall be elected, at the general election in each organized county in the year 1877, and every three years thereafter, except as otherwise provided in this article, a county judge, who shall be judge of the county court of said county,



whose term of office shall be three years, and whose compensation shall be as may be provided by law.

SEC. 23. County courts shall be courts of record, and shall have original jurisdiction in all matters of probate, settlement of estates of deceased persons, appointment of guardians, conservators, and administrators, and settlement of their accounts, and such other civil and criminal jurisdiction as may be conferred by law: *Provided*, Such courts shall not have jurisdiction in any case where the debt, damage, or claim, or value of property involved, shall exceed two thousand dollars, except in cases relating to the estates of deceased persons. Appeals may be taken from county to district courts, or to the supreme court, in such cases and in such manner as may be prescribed by law. Writs of error shall lie from the supreme court to every final judgment of the county court. No appeal shall lie to the district court from any judgment given upon an appeal from a justice of the peace.

Criminal court.

SEC. 24. The general assembly shall have power to create and establish a criminal court in each county having a population exceeding fifteen thousand, which court may have concurrent jurisdiction with the district courts in all criminal cases not capital, the terms of such courts to be as provided by law.

Justices of the peace.

SEC. 25. Justices of the peace shall have such jurisdiction as may be conferred by law; but they shall not have jurisdiction of any case wherein the value of the property, or the amount in controversy, exceeds the sum of three hundred dollars, nor where the boundaries or title to real property shall be called in question.

Police magistrates.

SEC. 26. The general assembly shall have power to provide for creating such police magistrates for cities and towns, as may be deemed from time to time necessary or expedient, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns respectively.

Miscellaneous.

SEC. 27. The judges of courts of record, inferior to the supreme court, shall, on or before the first day in July in each year, report in writing to the judges of the supreme court such defects and omissions in the laws as their knowledge and experience may suggest, and the judges of the supreme court shall, on or before the first day of December of each year, report in writing to the governor, to be by him transmitted to the general assembly, together with his message, such defects and omissions in the constitution and laws as they may find to exist, together with appropriate bills for curing the same.

SEC. 28. All laws relating to courts shall be general and of uniform operation throughout the State; and the organization, jurisdiction, powers, proceedings, and practice of all the courts of the same class or grade, so far as regulated by law, and the force and effect of the proceedings, judgments, and decrees of such courts severally, shall be uniform.

SEC. 29. All officers provided for in this article, excepting judges of the supreme court, shall respectively reside in the district, county, precinct, city, or town for which they may be elected or appointed. Vacancies in elective offices shall be filled by election, but when the unexpired term does not exceed one year, the vacancy shall be filled by appointment, as follows: Of judges of the supreme and district courts, by the governor; of district attorneys, by the judge of the court of which the office appertains, and of all other judicial officers by the board of county commissioners of the county where the vacancy occurs.

SEC. 30. All process shall run in the name of "The people of the State of Colorado;" all prosecutions shall be carried on in the name and by the authority of "The people of the State of Colorado," and conclude, "against the peace and dignity of the same."

ARTICLE VII.

SUFFRAGE AND ELECTIONS.

SECTION 1. Every male person over the age of 21 years, possessing the following qualifications, shall be entitled to vote at all elections:

First. He shall be a citizen of the United States, or, not being a citizen of the United States, he shall have declared his intention, according to law, to become such citizen, not less than four months before he offers to vote.

Second. He shall have resided in the State six months immediately preceding the election at which he offers to vote, and in the county, city, town, ward, or precinct, such time as may be prescribed by law: *Provided*, That no person shall be denied the right to vote at any school-district election, nor to hold any school-district office, on account of sex.

SEC. 2. The general assembly shall, at the first session thereof, and may at any subsequent session, enact laws to extend the right of suffrage to women of lawful age, and otherwise qualified according to the provisions of this article. No such enactment shall be of effect until submitted to the vote of the qualified electors at a general election, nor unless the same be approved by a majority of those voting thereon.

SEC. 3. The general assembly may prescribe, by law, an educational qualification for electors, but no such law shall take effect prior to the year of our Lord one thousand eight hundred and ninety, and no qualified elector shall be thereby disqualified.

SEC. 4. For the purpose of voting and eligibility to office, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while in the civil or military service of the State, or of the United States, nor while a student at any institution of learning, nor while kept at public expense in any poor-house or other asylum, nor while confined in public prison.

SEC. 5. Voters shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

SEC. 6. No person except a qualified elector shall be elected or appointed to any civil or military office in the State.

SEC. 7. The general election shall be held on the first Tuesday of October, in the years of our Lord eighteen hundred and seventy-six, eighteen hundred and seventy-seven, and eighteen hundred and seventy-eight, and annually thereafter on such day as may be prescribed by law.

SEC. 8. All elections by the people shall be by ballot; every ballot voted shall be numbered in the order in which it shall be received, and the number be recorded by the election-officers on the list of voters opposite the name of the voter who presents the ballot. The election-officers shall be sworn or affirmed not to inquire or disclose how any elector shall have voted. In all cases of contested elections, the ballots cast may be counted, compared with the list of voters, and examined, under such safeguards and regulations as may be prescribed by law.

SEC. 9. In trials of contested elections, and for offences arising under the election-law, no person shall be permitted to withhold his testimony on the ground that it may criminate himself, or subject him to public infamy; but such testimony shall not be used against him in any judicial proceedings, except for perjury in giving such testimony.

SEC. 10. No person while confined in any public prison shall be entitled to vote; but every such person who was a qualified elector prior to such imprisonment, and who is released therefrom by virtue of a pardon, or by virtue of having served out his full term of imprisonment, shall, without further action, be invested with all the rights of citizenship, except as otherwise provided in this constitution.

SEC. 11. The general assembly shall pass laws to secure the purity of elections and guard against abuses of the elective franchise.

SEC. 12. The general assembly shall, by general law, designate the courts and judges by whom the several classes of election contests, not herein provided for, shall be tried, and regulate the manner of trial, and all matters incident thereto; but no such law shall apply to any contest arising out of an election held before its passage.

ARTICLE VIII.

STATE INSTITUTIONS.

SECTION 1. Educational, reformatory, and penal institutions, and those for the benefit of the insane, blind, deaf and mute, and such other institutions as the public good may require, shall be established and supported by the State, in such manner as may be prescribed by law.

SEC. 2. The general assembly shall have no power to change or to locate the seat of government of the State, but shall at its first session subsequent to the year of our Lord one thousand eight hundred and eighty, provide by law for submitting the question of the permanent location of the seat of government to the qualified electors of the State, at the general election then next ensuing, and a majority of all the votes upon said question, cast at said election, shall be necessary to determine the location thereof. Said general assembly shall also provide that in case there shall be no choice of location at said election, the question of choice between the two places for which the highest number of votes shall have been cast, shall be submitted in like manner to the qualified electors of the State, at the next general election: *Provided*, That until the seat of government shall have been permanently located as herein provided, the temporary location thereof shall remain at the city of Denver.

SEC. 3. When the seat of government shall have been located as herein provided, the location thereof shall not thereafter be changed except by a vote of two-thirds of all the qualified electors of the State voting on that question, at a general election, at which the question of location of the seat of government shall have been submitted by the general assembly.

SEC. 4. The general assembly shall make no appropriation or expenditures for capitol buildings or grounds until the seat of government shall have been permanently located as herein provided.

SEC. 5. The following territorial institutions, to wit, The University at Boulder, the Agricultural College at Fort Collins, the School of Mines at Golden, the Institute for the Education of Mutes at Colorado Springs, shall, upon the adoption of this constitution, become institutions of the State of Colorado, and the management thereof subject to the control of the State, under such laws and regulations as the general assembly shall provide; and the location of said institutions, as well as all gifts, grants, and appropriations of money and property, real and personal, heretofore made to said several institutions, are hereby confirmed to the use and benefit of the same respectively: *Provided*, This section shall not apply to any institution, the property, real or personal, of which is now vested in the trustees thereof, until such property be transferred by proper conveyance, together with the control thereof, to the officers provided for the management of said institution by this constitution or by law.

ARTICLE IX.

EDUCATION.

SECTION 1. The general supervision of the public schools of the State shall be vested in a board of education, whose powers and duties shall be prescribed by law; the superintendent of public instruction, the secretary of state, and attorney-general shall constitute the board, of which the superintendent of public instruction shall be president.

SEC. 2. The general assembly shall, as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the State wherein all residents of the State between the ages of six and twenty-one years may be educated gratuitously. One or more public schools shall be maintained in each school-district within the State at least three months in each year; any school-district failing to have such school shall not be entitled to receive any portion of the school-fund for that year.

SEC. 3. The public-school fund of the State shall forever remain inviolate and intact; the interest thereon only shall be expended in the maintenance of the schools of the State, and shall be distributed among the several counties and school-districts

of the State in such manner as may be prescribed by law. No part of this fund, principal or interest, shall ever be transferred to any other fund, or used or appropriated except as herein provided. The State treasurer shall be the custodian of this fund, and the same shall be securely and profitably invested as may be by law directed. The State shall supply all losses thereof that may in any manner occur.

SEC. 4. Each county treasurer shall collect all school-funds belonging to his county, and the several school-districts therein, and disburse the same to the proper districts upon warrants drawn by the county superintendent, or by the proper district authorities as may be provided by law.

SEC. 5. The public-school fund of the State shall consist of the proceeds of such lands as have heretofore been, or may hereafter be, granted to the State by the General Government for educational purposes; all estates that may escheat to the State; also all other grants, gifts, or devises that may be made to this State for educational purposes.

SEC. 6. There shall be a county superintendent of schools in each county whose term of office shall be two years, and whose duties, qualifications, and compensation shall be prescribed by law. He shall be *ex officio* commissioner of lands within his county, and shall discharge the duties of said office under the direction of the State board of land commissioners, as directed by law.

SEC. 7. Neither the general assembly, nor any county, city, town, township, school-district, or other public corporation shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian society, or for any sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution controlled by any church or sectarian denomination whatsoever; nor shall any grant or donation of land, money, or other personal property ever be made by the State, or any such public corporation, to any church or for any sectarian purpose.

SEC. 8. No religious test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the State, either as teacher or student; and no teacher or student of any such institution shall ever be required to attend or participate in any religious service whatever. No sectarian tenets or doctrines shall ever be taught in the public schools, nor shall any distinction or classification of pupils be made on account of race or color.

SEC. 9. The governor, superintendent of public instruction, secretary of state, and attorney-general shall constitute the State board of land commissioners, who shall have the direction, control, and disposition of the public lands of the State, under such regulations as may be prescribed by law.

SEC. 10. It shall be the duty of the State board of land commissioners to provide for the location, protection, sale, or other disposition of all the lands heretofore, or which may hereafter be, granted to the State by the General Government, under such regulations as may be prescribed by law, and in such manner as will secure the maximum possible amount therefor. No law shall ever be passed by the general assembly granting any privileges to persons who may have settled upon any such public lands subsequent to the survey thereof by the General Government, by which the amount to be derived by the sale, or other disposition of such lands, shall be diminished, directly or indirectly. The general assembly shall, at the earliest practicable period, provide by law that the several grants of land made by Congress to the State shall be judiciously located and carefully preserved and held in trust subject to disposal for the use and benefit of the respective objects for which said grants of land were made, and the general assembly shall provide for the sale of said lands from time to time, and for the faithful application of the proceeds thereof in accordance with the terms of said grants.

SEC. 11. The general assembly may require, by law, that every child of sufficient mental and physical ability shall attend the public school during the period between the ages of six and eighteen years, for a time equivalent to three years, unless educated by other means.

SEC. 12. There shall be elected by the qualified electors of the State, at the first general election under this constitution, six regents of the university, who shall, imme-

diately after their election, be so classified, by lot, that two shall hold their office for the term of two years, two for four years, and two for six years; and every two years after the first election there shall be elected two regents of the university, whose term of office shall be six years. The regents thus elected, and their successors, shall constitute a body-corporate, to be known by the name and style of "The Regents of the University of Colorado."

SEC. 13. The regents of the university shall, at their first meeting, or as soon thereafter as practicable, elect a president of the university, who shall hold his office until removed by the board of regents for cause; he shall be *ex officio* a member of the board, with the privilege of speaking, but not of voting, except in cases of a tie; he shall preside at the meetings of the board, and be the principal executive officer of the university, and a member of the faculty thereof.

SEC. 14. The board of regents shall have the general supervision of the university, and the exclusive control and direction of all the funds of, and appropriations to, the university.

SEC. 15. The general assembly shall, by law, provide for organization of school districts of convenient size, in each of which shall be established a board of education, to consist of three or more directors, to be elected by the qualified electors of the district. Said directors shall have control of instruction in the public schools of their respective districts.

SEC. 16. Neither the general assembly nor the State board of education shall have power to prescribe text-books to be used in the public schools.

ARTICLE X.

REVENUE.

SECTION 1. The fiscal year shall commence on the first day of October in each year, unless otherwise provided by law.

SEC. 2. The general assembly shall provide by law for an annual tax sufficient, with other resources, to defray the estimated expenses of the State government for each fiscal year.

SEC. 3. All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal: *Provided*, That mines and mining-claims bearing gold, silver, and other precious metals, (except the net proceeds and surface improvements thereof,) shall be exempt from taxation for the period of ten years from the date of the adoption of this constitution, and thereafter may be taxed as provided by law. Ditches, canals, and flumes owned and used by individuals or corporations for irrigating lands owned by such individuals or corporations, or the individual members thereof, shall not be separately taxed so long as they shall be owned and used exclusively for such purpose.

SEC. 4. The property, real and personal, of the State, counties, cities, towns, and other municipal corporations, and public libraries, shall be exempt from taxation.

SEC. 5. Lots, with the buildings thereon, if said buildings are used solely and exclusively for religious worship, for schools, or for strictly charitable purposes, also cemeteries not used or held for private or corporate profit, shall be exempt from taxation, unless otherwise provided by general law.

SEC. 6. All laws exempting from taxation property other than that hereinbefore mentioned shall be void.

SEC. 7. The general assembly shall not impose taxes for the purposes of any county, city, town, or other municipal corporation, but may, by law, vest in the corporate authorities thereof respectively the power to assess and collect taxes for all purposes of such corporation.

SEC. 8. No county, city, town, or other municipal corporation, the inhabitants thereof, nor the property therein, shall be released or discharged from their, or its, proportionate share of taxes to be levied for State purposes.

SEC. 9. The power to tax corporations and corporate property, real and personal, shall never be relinquished or suspended.

SEC. 10. All corporations in this State, or doing business therein, shall be subject to taxation for State, county, school, municipal, and other purposes, on the real and personal property owned or used by them within the territorial limits of the authority levying the tax.

SEC. 11. The rate of taxation on property, for State purposes, shall never exceed six mills on each dollar of valuation; and whenever the taxable property within the State shall amount to one hundred million dollars the rate shall not exceed four mills on each dollar of valuation; and whenever the taxable property within the State shall amount to three hundred million dollars the rate shall never thereafter exceed two mills on each dollar of valuation, unless a proposition to increase such rate, specifying the rate proposed, and the time during which the same shall be levied, be first submitted to a vote of such of the qualified electors of the State as in the year next preceding such election shall have paid a property-tax assessed to them within the State, and a majority of those voting thereon shall vote in favor thereof, in such manner as may be provided by law.

SEC. 12. The treasurer shall keep a separate account of each fund in his hands, and shall, at the end of each quarter of the fiscal year, report to the governor in writing, under oath, the amount of all moneys in his hands to the credit of every such fund, and the place where the same are kept or deposited, and the number and amount of every warrant received, and the number and amount of every warrant paid therefrom during the quarter. Swearing falsely to any such report shall be deemed perjury. The governor shall cause every such report to be immediately published in at least one newspaper printed at the seat of government, and otherwise as the general assembly may require. The general assembly may provide by law further regulations for the safe-keeping and management of the public funds in the hands of the treasurer; but notwithstanding any such regulation, the treasurer and his sureties shall in all cases be held responsible therefor.

SEC. 13. The making of profit, directly or indirectly, out of State, county, city, town or school-district money, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law.

SEC. 14. Private property shall not be taken or sold for the payment of the corporate debt of municipal corporations.

SEC. 15. There shall be a State board of equalization, consisting of the governor, State auditor, State treasurer, secretary of state, and attorney-general; also, in each county of this State, a county board of equalization, consisting of the board of county commissioners of said county. The duty of the State board of equalization shall be to adjust and equalize the valuation of real and personal property among the several counties of the State. The duty of the county board of equalization shall be to adjust and equalize the valuation of real and personal property within their respective counties. Each board shall also perform such other duties as may be prescribed by law.

SEC. 16. No appropriation shall be made, nor any expenditure authorized by the general assembly, whereby the expenditure of the State, during any fiscal year, shall exceed the total tax then provided for by law and applicable for such appropriation or expenditure, unless the general assembly making such appropriation shall provide for levying a sufficient tax, not exceeding the rates allowed in section eleven of this article, to pay such appropriation or expenditure within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrection, defend the State, or assist in defending the United States in time of war.

ARTICLE XI.

PUBLIC INDEBTEDNESS.

SECTION 1. Neither the State, nor any county, city, town, township, or school-district shall lend or pledge the credit or faith thereof, directly or indirectly, in any manner to, or in aid of, any person, company, or corporation, public or private, for any amount or for any purpose whatever, or become responsible for any debt, contract, or liability of any person, company, or corporation, public or private, in or out of the State.

SEC. 2. Neither the State, nor any county, city, town, township, or school-district shall make any donation or grant to, or in aid of, or become a subscriber to, or shareholder in, any corporation or company, or a joint owner with any person, company, or corporation, public or private, in or out of the State, except as to such ownership as may accrue to the State by escheat, or by forfeiture, by operation or provision of law; and except as to such ownership as may accrue to the State, or to any county, city, town, township, or school-district, or to either or any of them, jointly with any person, company, or corporation, by forfeiture or sale of real estate for non-payment of taxes, or by donation or devise for public use, or by purchase by or on behalf of any or either of them, jointly with any or either of them, under execution in cases of fine, penalties, or forfeiture of recognizance, breach of condition of official bond, or of bond to secure public moneys, or the performance of any contract in which they or any of them may be jointly or severally interested.

SEC. 3. The State shall not contract any debt by loan, in any form, except to provide for casual deficiencies of revenue, erect public buildings for use of the State, suppress insurrection, defend the State, or, in time of war, assist in defending the United States; and the amount of debt contracted in any one year to provide for deficiencies of the revenue shall not exceed one-fourth of a mill on each dollar of valuation of taxable property within the State, and the aggregate amount of such debt shall not at any time exceed three-fourths of a mill on each dollar of said valuation until the valuation shall equal one hundred millions of dollars, and thereafter such debt shall not exceed one hundred thousand dollars, and the debt incurred in any one year for erection of public buildings shall not exceed one-half mill on each dollar of said valuation, and the aggregate amount of such debt shall never at any time exceed the sum of fifty thousand dollars, (except as provided in section five of this article;) and in all cases the valuation in this section mentioned shall be that of the assessment last preceding the creation of said debt.

SEC. 4. In no case shall any debt above mentioned in this article be created, except by a law which shall be irrepealable, until the indebtedness therein provided for shall have been fully paid or discharged; such law shall specify the purposes to which the funds so raised shall be applied, and provide for the levy of a tax sufficient to pay the interest on, and extinguish the principal of, such debt within the time limited by such law for the payment thereof, which, in the case of debts contracted for the erection of public buildings and supplying deficiencies of revenue, shall not be less than ten nor more than fifteen years; and the funds arising from the collection of any such tax shall not be applied to any other purpose than that provided in the law levying the same; and when the debt thereby created shall be paid or discharged such tax shall cease, and the balance, if any, to the credit of the fund, shall immediately be placed to the credit of the general fund of the State.

SEC. 5. A debt for the purpose of erecting public buildings may be created by law, as provided for in section four of this article, not exceeding in the aggregate three mills on each dollar of said valuation: *Provided*, That before going into effect such law shall be ratified by the vote of a majority of such qualified electors of the State as shall vote thereon at a general election, under such regulations as the general assembly may prescribe.

SEC. 6. No county shall contract any debt by loan in any form, except for the purpose of erecting necessary public buildings, making or repairing public roads and bridges; and such indebtedness contracted in any one year shall not exceed the rates upon the taxable property in such county following, to wit: counties in which the assessed valuation of taxable property shall exceed five millions of dollars, one dollar and fifty cents on each thousand dollars thereof; counties in which such valuation shall be less than five millions of dollars, three dollars on each thousand dollars thereof; and the aggregate amount of indebtedness of any county, for all purposes, exclusive of debts contracted before the adoption of this constitution, shall not at any time exceed twice the amount above herein limited, unless when, in manner provided by law, the question of incurring such debt shall, at a general election, be submitted to such of the qualified electors of such county as in the year last preceding such election shall have paid a tax upon property assessed to them in such county, and a

majority of those voting thereon shall vote in favor of incurring the debt; but the bonds, if any be issued therefor, shall not run less than ten years; and the aggregate amount of debt so contracted shall not at any time exceed twice the rate upon the valuation last herein mentioned: *Provided*, That this section shall not apply to counties having a valuation of less than one million of dollars.

SEC. 7. No debt by loan in any form shall be contracted by any school-district for the purpose of erecting and furnishing school-buildings or purchasing grounds, unless the proposition to create such debt shall first be submitted to such qualified electors of the districts as shall have paid a school-tax therein in the year next preceding such election, and a majority of those voting thereon shall vote in favor of incurring such debt.

SEC. 8. No city or town shall contract any debt by loan in any form, except by means of an ordinance, which shall be irrepealable until the indebtedness therein provided for shall have been fully paid or discharged, specifying the purposes to which the funds to be raised shall be applied, and providing for the levy of a tax, not exceeding twelve mills on each dollar of valuation of taxable property within such city or town, sufficient to pay the annual interest and extinguish the principal of such debt within fifteen, but not less than ten, years from the creation thereof; and such tax, when collected, shall be applied only to the purposes in such ordinance specified until the indebtedness shall be paid or discharged; but no such debt shall be created unless the question of incurring the same shall, at a regular election for councilmen, aldermen, or officers of such city or town, be submitted to a vote of such qualified electors thereof as shall, in the year next preceding, have paid a property-tax therein, and a majority of those voting on the question, by ballot deposited in a separate ballot-box, shall vote in favor of creating such debt; but the aggregate amount of debt so created, together with the debt existing at the time of such election, shall not at any time exceed three per cent. of the valuation last aforesaid. Debts contracted for supplying water to such city or town are excepted from the operation of this section. The valuation in this section mentioned shall be in all cases that of the assessment next preceding the last assessment before the adoption of such ordinance.

SEC. 9. Nothing contained in this article shall be so construed as to either impair or add to the obligation of any debt heretofore contracted by any county, city, town, or school-district in accordance with the laws of Colorado Territory, or prevent the contracting of any debt, or the issuing of bonds therefor, in accordance with said laws, upon any proposition for that purpose which may have been, according to said laws, submitted to a vote of the qualified electors of any county, city, town, or school-district before the day on which this constitution takes effect.

ARTICLE XII.

OFFICERS.

SECTION 1. Every person holding any civil office under the State or any municipality therein shall, unless removed according to law, exercise the duties of such office until his successor is duly qualified; but this shall not apply to members of the general assembly, nor to members of any board or assembly two or more of whom are elected at the same time; the general assembly may by law provide for suspending any officer in his functions pending impeachment or prosecution for misconduct in office.

SEC. 2. No person shall hold any office or employment of trust or profit, under the laws of the State or any ordinance of any municipality therein, without devoting his personal attention to the duties of the same.

SEC. 3. No person who is now or hereafter may become a collector or receiver of public money, or the deputy or assistant of such collector or receiver, and who shall have become a defaulter in his office, shall be eligible to or assume the duties of any office of trust or profit in this State, under the laws thereof, or of any municipality therein, until he shall have accounted for and paid over all public money for which he may be accountable.

SEC. 4. No person hereafter convicted of embezzlement of public moneys, bribery,

perjury, solicitation of bribery, or subornation of perjury, shall be eligible to the general assembly, or capable of holding any office of trust or profit in this State.

SEC. 5. The district court of each county shall, at each term thereof, specially give in charge to the grand jury, if there be one, the laws regulating the accountability of the county treasurer, and shall appoint a committee of such grand jury, or of other reputable persons, not exceeding five, to investigate the official accounts and affairs of the treasurer of such county, and report to the court the condition thereof. The judge of the district court may appoint a like committee in vacation at any time, but not oftener than once in every three months. The district court of the county wherein the seat of government may be shall have the like power to appoint committees to investigate the official accounts and affairs of the State treasurer and the auditor of State.

SEC. 6. Any civil officer or member of the general assembly who shall solicit, demand, or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation, or person, any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage or promise thereof, for his vote, official influence, or action, or for withholding the same, or with an understanding that his official influence or action shall be in any way influenced thereby, or who shall solicit or demand any such money or advantage, matter, or thing aforesaid for another, as the consideration of his vote, official influence, or action, or for withholding the same, or shall give or withhold his vote, official influence, or action in consideration of the payment or promise of such money, advantage, matter, or thing to another, shall be held guilty of bribery, or solicitation of bribery, as the case may be, within the meaning of this constitution, and shall incur the disabilities provided thereby for such offence, and such additional punishment as is or shall be prescribed by law.

SEC. 7. Every member of the general assembly shall, before he enters upon his official duties, take an oath or affirmation to support the Constitution of the United States and of the State of Colorado, and to faithfully perform the duties of his office according to the best of his ability. This oath, or affirmation, shall be administered in the hall of the house to which the member shall have been elected.

SEC. 8. Every civil officer, except members of the general assembly and such inferior officers as may be by law exempted, shall, before he enters upon the duties of his office, take and subscribe an oath or affirmation to support the Constitution of the United States and the State of Colorado, and to faithfully perform the duties of the office upon which he shall be about to enter.

SEC. 9. Officers of the executive department and judges of the supreme and districts courts, and district attorneys, shall file their oaths of office with the secretary of state; every other officer shall file his oath of office with the county clerk of the county wherein he shall have been elected.

SEC. 10. If any person elected or appointed to any office shall refuse or neglect to qualify therein within the time prescribed by law, such office shall be deemed vacant.

SEC. 11. The term of office of any officer elected to fill a vacancy shall terminate at the expiration of the term during which the vacancy occurred.

SEC. 12. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept, or knowingly carry a challenge therefor, or agree to go out of the State to fight a duel, shall hold any office in the State.

ARTICLE XIII.

IMPEACHMENTS.

SECTION 1. The house of representatives shall have the sole power of impeachment. The concurrence of a majority of all the members shall be necessary to an impeachment. All impeachments shall be tried by the Senate, and, when sitting for that purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor or lieutenant governor is on trial, the chief-justice of the supreme court shall preside. No person shall be convicted without a concurrence of two-thirds of the senators elected.

SEC. 2. The governor and other State and judicial officers, except county judges and justices of the peace, shall be liable to impeachment for high crimes or misdemeanors, or malfeasance in office, but judgment in such cases shall only extend to removal from office and disqualification to hold any office of honor, trust, or profit in the State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment, and punishment according to law.

SEC. 3. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office, in such manner as may be provided by law.

ARTICLE XIV.

COUNTIES.

SECTION 1. The several counties of the Territory of Colorado, as they now exist, are hereby declared to be counties of the State.

SEC. 2. The general assembly shall have no power to remove the county-seat of any county, but the removal of county-seats shall be provided for by general law, and no county-seat shall be removed unless a majority of the qualified electors of the county, voting on the proposition at a general election, vote therefor; and no such proposition shall be submitted oftener than once in four years, and no person shall vote on such proposition who shall not have resided in the county six months and in the election-precinct ninety days next preceding such election.

SEC. 3. No part of the territory of any county shall be stricken off and added to an adjoining county without first submitting the question to the qualified voters of the county from which the territory is proposed to be stricken off; nor unless a majority of all the qualified voters of said county voting on the question shall vote therefor.

SEC. 4. In all cases of the establishment of any new county, the new county shall be held to pay its ratable proportion of all then existing liabilities of the county or counties from which such new county shall be formed.

SEC. 5. When any part of a county is stricken off and attached to another county, the part stricken off shall be held to pay its ratable proportion of all then existing liabilities of the county from which it is taken.

COUNTY OFFICERS.

SEC. 6. In each county there shall be elected for the term of three years three county commissioners, who shall hold sessions for the transaction of county business as provided by law, any two of whom shall constitute a quorum for the transaction of business. One of said commissioners shall be elected on the first Tuesday of October, eighteen hundred and seventy-six, and every year thereafter one such officer shall be elected in each county, at the general election, for the term of three years: *Provided,* That when the population of any county shall exceed ten thousand, the board of county commissioners may consist of five members, who shall be elected as provided by law, any three of whom shall constitute a quorum for the transaction of business.

SEC. 7. The compensation of all county and precinct officers shall be as provided by law.

SEC. 8. There shall be elected in each county, on the first Tuesday of October, in the year one thousand eight hundred and seventy-seven, and every alternate year forever thereafter, one county clerk, who shall be *ex officio* recorder of deeds and clerk of the board of county commissioners; one sheriff; one coroner; one treasurer, who shall be collector of taxes; one county superintendent of schools; one county surveyor, and one county assesssor.

SEC. 9. In case of a vacancy occurring in the office of county commissioner, the governor shall fill the same by appointment; and in the case of a vacancy in any other county office, or in any precinct office, the board of county commissioners shall fill the same by appointment; and the person appointed shall hold the office until the next general election, or until the vacancy be filled by election according to law.

SEC. 10. No person shall be eligible to any county office unless he be a qualified elector; nor unless he shall have resided in the county one year preceding his election.

SEC. 11. There shall, at the first election at which county officers are chosen, and annually thereafter, be elected in each precinct one justice of the peace and one constable, who shall each hold his office for the term of two years: *Provided*, That in precincts containing five thousand or more inhabitants, the number of justices and constables may be increased as provided by law.

SEC. 12. The general assembly shall provide for the election or appointment of such other county, township, precinct, and municipal officers as public convenience may require; and their terms of office shall be as prescribed by law, not in any case to exceed two years.

SEC. 13. The general assembly shall provide, by general laws, for the organization and classification of cities and towns. The number of such classes shall not exceed four, and the powers of each class shall be defined by general laws, so that all municipal corporations of the same class shall possess the same powers, and be subject to the same restrictions.

SEC. 14. The general assembly shall also make provision, by general law, whereby any city, town, or village, incorporated by any special or local law, may elect to become subject to, and be governed by, the general law relating to such corporations.

SEC. 15. For the purpose of providing for and regulating the compensation of county and precinct officers, the general assembly shall, by law, classify the several counties of the State according to population, and shall grade and fix the compensation of the officers within the respective classes according to the population thereof. Such law shall establish scales of fees to be charged and collected by such of the county and precinct officers as may be designated therein, for services to be performed by them respectively; and where salaries are provided the same shall be payable only out of the fees actually collected in all cases where fees are prescribed. All fees, perquisites, and emoluments, above the amount of such salaries, shall be paid into the county treasury.

ARTICLE XV.

CORPORATIONS.

SECTION 1. All existing charters or grants of special or exclusive privileges, under which the corporators or grantees shall not have organized and commenced business in good faith at the time of the adoption of this constitution, shall thereafter have no validity.

SEC. 2. No charter of incorporations shall be granted, extended, changed, or amended by special law, except for such municipal, charitable, educational, penal, or reformatory corporations as are or may be under the control of the State; but the general assembly shall provide by general laws for the organization of corporations hereafter to be created.

SEC. 3. The general assembly shall have the power to alter, revoke, or annul any charter of incorporation now existing and revocable at the adoption of this constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of the State, in such manner, however, that no injustice shall be done to the corporators.

SEC. 4. All railroads shall be public highways, and all railroad companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any designated points within this State, and to connect at the State line with railroads of other States and Territories. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad.

SEC. 5. No railroad corporation, or the lessees or managers thereof, shall consolidate its stock, property, or franchises with any other railroad corporation owning or having under its control a parallel or competing line.

SEC. 6. All individuals, associations, and corporations shall have equal rights to have persons and property transported over any railroad in this State, and no undue or unreasonable discrimination shall be made in charges or in facilities for transportation of freight or passengers within the State, and no railroad company, nor any lessee, manager, or employé thereof, shall give any preference to individuals, associations, or corporations in furnishing cars or motive-power.

SEC. 7. No railroad or other transportation company in existence at the time of the adoption of this constitution shall have the benefit of any future legislation without first filing in the office of the secretary of state an acceptance of the provisions of this constitution in binding form.

SEC. 8. The right of eminent domain shall never be abridged, nor so construed as to prevent the general assembly from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the police powers of the State shall never be abridged, or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well-being of the State.

SEC. 9. No corporation shall issue stocks or bonds, except for labor done, services performed, or money or property actually received, and all fictitious increase of stock and indebtedness shall be void. The stock of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding a majority of the stock, first obtained at a meeting held after at least thirty days' notice given in pursuance of law.

SEC. 10. No foreign corporation shall do any business in this State without having one or more known places of business, and an authorized agent or agents in the same upon whom process may be served.

SEC. 11. No street railroad shall be constructed within any city, town, or incorporated village without the consent of the local authorities having the control of the street or highway proposed to be occupied by such street-railroad.

SEC. 12. The general assembly shall pass no law for the benefit of a railroad or other corporation, or any individual or association of individuals, retrospective in its operation, or which imposes on the people of any county or municipal subdivision of the State a new liability in respect to transactions or considerations already past.

SEC. 13. Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and to connect the same with other lines; and the general assembly shall, by general law of uniform operation, provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with, or hold a controlling interest in, the stock or bonds of any other telegraph company owning or having the control of a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph.

SEC. 14. If any railroad, telegraph, express, or other corporation organized under any of the laws of this State shall consolidate, by sale or otherwise, with any railroad, telegraph, express, or other corporation organized under any laws of any other State or Territory, or of the United States, the same shall not thereby become a foreign corporation, but the courts of this State shall retain jurisdiction over that part of the corporate property within the limits of the State in all matters which may arise, as if said consolidation had not taken place.

SEC. 15. It shall be unlawful for any person, company, or corporation to require of its servants or employés, as a condition of their employment or otherwise, any contract or agreement whereby such person, company, or corporation shall be released or discharged from liability or responsibility on account of personal injuries received by such servants or employés while in the service of such person, company, or corporation by reason of the negligence of such person, company, or corporation, or the agents or employés thereof; and such contracts shall be absolutely null and void.

ARTICLE XVI.

MINING AND IRRIGATION.

Mining.

SECTION 1. There shall be established and maintained the office of commissioner of mines, the duties and salary of which shall be prescribed by law. When said office shall be established the governor shall, with the advice and consent of the Senate, appoint thereto a person known to be competent, whose term of office shall be four years.



SEC. 2. The general assembly shall provide by law for the proper ventilation of mines, the construction of escapement-shafts, and such other appliances as may be necessary to protect the health and secure the safety of the workmen therein, and shall prohibit the employment in the mines of children under twelve years of age.

SEC. 3. The general assembly may make such regulations from time to time as may be necessary for the proper and equitable drainage of mines.

SEC. 4. The general assembly may provide that the science of mining and metallurgy be taught in one or more of the institutions of learning under the patronage of the State.

Irrigation.

SEC. 5. The water of every natural stream not heretofore appropriated within the State of Colorado is hereby declared to be the property of the public; and the same is dedicated to the use of the people of the State, subject to appropriation as hereinafter provided.

SEC. 6. The right to divert the unappropriated waters of any natural stream to beneficial uses shall never be denied. Priority of appropriation shall give the better right as between those using the water for the same purpose; but when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall have the preference over those claiming for any other purpose, and those using the water for agricultural purposes shall have preference over those using the same for manufacturing purposes.

SEC. 7. All persons and corporations shall have the right of way across public, private, and corporate lands for the construction of ditches, canals, and flumes for the purpose of conveying water for domestic purposes, for the irrigation of agricultural lands, and for mining and manufacturing purposes, and for drainage, upon payment of just compensation.

SEC. 8. The general assembly shall provide by law that the board of county commissioners, in their respective counties, shall have power, when application is made to them by either party interested, to establish reasonable maximum rates to be charged for the use of water, whether furnished by individuals or corporations.

ARTICLE XVII.

MILITIA.

SECTION 1. The militia of the State shall consist of all able-bodied male residents of the State between the ages of eighteen and forty-five years, except such persons as may be exempted by the laws of the United States or of the State.

SEC. 2. The organization, equipment, and discipline of the militia shall conform, as nearly as practicable, to the regulations for the government of the armies of the United States.

SEC. 3. The governor shall appoint all general, field, and staff officers, and commission them. Each company shall elect its own officers, who shall be commissioned by the governor; but if any company shall fail to elect such officers within the time prescribed by law, they may be appointed by the governor.

SEC. 4. The general assembly shall provide for the safe-keeping of the public arms, military records, relics, and banners of the State.

SEC. 5. No person having conscientious scruples against bearing arms shall be compelled to do militia duty in time of peace: *Provided*, Such person shall pay an equivalent for such exemption.

ARTICLE XVIII.

MISCELLANEOUS.

SECTION 1. The general assembly shall pass liberal homestead and exemption laws.

SEC. 2. The general assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift-enterprise tickets in this State.

SEC. 3. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by mutual agreement of the parties to any controversy, who may choose that mode of adjustment. The powers and duties of such arbitrators shall be as prescribed by law.

SEC. 4. The term felony, wherever it may occur in this constitution or the laws of the State, shall be construed to mean any criminal offence punishable by death or imprisonment in the penitentiary, and none other.

SEC. 5. The general assembly shall prohibit by law the importation into this State, for the purpose of sale, of any spurious, poisonous, or drugged spirituous liquors, or spirituous liquors adulterated with any poisonous or deleterious substance, mixture, or compound; and shall prohibit the compounding or manufacture within this State, except for chemical or mechanical purposes, of any of said liquors, whether they be denominated spirituous, vinous, malt, or otherwise; and shall also prohibit the sale of any such liquors to be used as a beverage; and any violation of either of said prohibitions shall be punished by fine and imprisonment. The general assembly shall provide by law for the condemnation and destruction of all spurious, poisonous, or drugged liquors herein prohibited.

SEC. 6. The general assembly shall enact laws in order to prevent the destruction of, and to keep in good preservation, the forests upon the lands of the State, or upon lands of the public domain, the control of which shall be conferred by Congress upon the State.

SEC. 7. The general assembly may provide that the increase in the value of private lands, caused by the planting of hedges, orchards, and forests thereon, shall not, for a limited time, to be fixed by law, be taken into account in assessing such lands for taxation.

SEC. 8. The general assembly shall provide for the publication of the laws passed at each session thereof; and, until the year 1900, they shall cause to be published in Spanish and German a sufficient number of copies of said laws to supply that portion of the inhabitants of the State who speak those languages, and who may be unable to read and understand the English language.

ARTICLE XIX.

FUTURE AMENDMENTS.

SECTION 1. The general assembly may, at any time, by a vote of two-thirds of the members elected to each house, recommend to the electors of the State to vote at the next general election for or against a convention to revise, alter, and amend this constitution; and if a majority of those voting on the question shall declare in favor of such convention, the general assembly shall, at its next session, provide for the calling thereof. The number of members of the convention shall be twice that of the senate, and they shall be elected in the same manner, at the same places, and in the same districts. The general assembly shall, in the act calling the convention, designate the day, hour, and place of its meeting; fix the pay of its members and officers, and provide for the payment of the same, together with the necessary expenses of the convention. Before proceeding the members shall take an oath to support the Constitution of the United States and of the State of Colorado, and to faithfully discharge their duties as members of the convention. The qualifications of members shall be the same as of members of the senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the general assembly. Said convention shall meet within three months after such election, and prepare such revisions, alterations, or amendments to the constitution as may be deemed necessary, which shall be submitted to electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration, or amendment shall take effect.

SEC. 2. Any amendment or amendments to this constitution may be proposed in either house of the general assembly, and if the same shall be voted for by two-



thirds of all the members elected to each house, such proposed amendments, together with the ayes and noes of each house thereon, shall be entered in full on their respective journals; and the secretary of state shall cause the said amendment or amendments to be published in full in at least one newspaper in each county, (if such there be,) for three months previous to the next general election for members to the general assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the State for their approval or rejection, and such as are approved by a majority of those voting thereon shall become part of this constitution; but the general assembly shall have no power to propose amendments to more than one article of this constitution at the same session.

SCHEDULE.

That no inconvenience may arise by reason of the change in the form of government, it is hereby ordained and declared:

SECTION 1. That all laws in force at the adoption of this constitution shall, so far as not inconsistent therewith, remain of the same force as if this constitution had not been adopted until they expire by their own limitation, or are altered or repealed by the general assembly; and all rights, actions, prosecutions, claims, and contracts of the Territory of Colorado, counties, individuals, or bodies-corporate, (not inconsistent therewith,) shall continue as if the form of government had not been changed and this constitution adopted.

SEC. 2. That all recognizances, obligations, and all other instruments entered into or executed before the admission of the State to the Territory of Colorado, or to any county, school-district, or other municipality therein, or any officer thereof, and all fines, taxes, penalties, and forfeitures due or owing to the Territory of Colorado, or any such county, school-district, or municipality, or officer, and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the change of the form of government. All indictments which shall have been found, or may hereafter be found, and all informations which shall have been filed, or may hereafter be filed, for any crime or offence committed before this constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in the constitution.

SEC. 3. That all property, real and personal, and all moneys, credits, claims, and choses in action belonging to the Territory of Colorado at the adoption of this constitution shall be vested in and become the property of the State of Colorado.

SEC. 4. The general assembly shall pass all necessary laws to carry into effect the provisions of the constitution.

SEC. 5. Whenever any two of the judges of the supreme court of the State, elected or appointed under the provisions of this constitution, shall have qualified in their office, the causes theretofore pending in the supreme court of the Territory, and the papers, records, and proceedings of said court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the supreme court of the State; and, until so superseded, the supreme court of the Territory, and the judges thereof, shall continue with like powers and jurisdiction as if this constitution had not been adopted. Whenever the judge of the district court of any district, elected or appointed under the provisions of this constitution, shall have qualified in his office, the several causes theretofore pending in the district court of the Territory, within any county in such district, and the records, papers, and proceedings of said district court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the district court of the State for such county, and until the district courts of the Territory shall be superseded in manner aforesaid, the said district courts and the judges thereof shall continue with the same jurisdiction and powers to be exercised in the same judicial districts respectively as heretofore constituted under the laws of the Territory.

SEC. 6. The terms of office of the several judges of the supreme and district courts and the district attorneys of the several judicial districts first elected under this con-

stitution shall commence from the day of filing their respective oaths of office in the office of the secretary of state.

SEC. 7. Until otherwise provided by law, the seals now in use in the supreme and district courts of this Territory are hereby declared to be the seals of the supreme and district courts respectively of the State.

SEC. 8. Whenever this constitution shall go into effect, the books, records, papers, and proceedings of the probate court in each county, and all causes and matters of administration pending therein, shall pass into the jurisdiction and possession of the county court of the same county, and the said county court shall proceed to final decree or judgment, order, or other determination, in the said several matters and causes as the said probate court might have done if this constitution had not been adopted. And until the election of the county judges provided for in this constitution, the probate judges shall act as judges of the county courts within their respective counties, and the seal of the probate court in each county shall be the seal of the county court therein until the said court shall have procured a proper seal.

SEC. 9. The terms "probate court" or "probate judge," whenever occurring in the statutes of Colorado Territory, shall, after the adoption of this constitution, be held to apply to the county court or county judge; and all laws specially applicable to the probate court in any county shall be construed to apply to and be in force as to the county court in the same county until repealed.

SEC. 10. All county and precinct officers who may be in office at the time of the adoption of this constitution shall hold their respective offices for the full time for which they may have been elected, and until such time as their successors may be elected and qualified, in accordance with the provisions of this constitution, and the official bonds of all such officers shall continue in full force and effect as though this constitution had not been adopted.

SEC. 11. All county offices that may become vacant during the year one thousand eight hundred and seventy-six, by the expiration of the term of the persons elected to said offices, shall be filled at the general election on the first Tuesday in October, in the year one thousand eight hundred and seventy-six, and, except county commissioners, the persons so elected shall hold their respective offices for the term of one year.

SEC. 12. The provisions of this constitution shall be in force from the day on which the President of the United States shall issue his proclamation declaring the State of Colorado admitted into the Union; and the governor, secretary, treasurer, auditor, and superintendent of public instruction of the Territory of Colorado shall continue to discharge the duties of their respective offices after the admission of the State into the Union until the qualification of the officers elected or appointed under the State government; and said officers, for the time they may serve, shall receive the same compensation as the State officers shall by law be paid for like services.

SEC. 13. In case of a contest of election between candidates, at the first general election under this constitution, for judges of the supreme, district, or county courts, or district attorneys, the evidence shall be taken in the manner prescribed by territorial law; and the testimony so taken shall be certified to the secretary of state, and said officer, together with the governor and attorney-general, shall review the testimony and determine who is entitled to the certificate of election.

SEC. 14. The votes at the first general election under this constitution for the several offices provided for in this constitution who are to be elected at the first election shall be canvassed in the manner prescribed by the territorial law for canvassing votes for like officers. The votes cast for the judges of the supreme and district courts and district attorneys shall be canvassed by the county canvassing-board in the manner prescribed by the territorial law for canvassing the votes for members of the general assembly; and the county clerk shall transmit the abstract of votes to the secretary of the Territory, acting as secretary of state, under the same regulations as are prescribed by law for sending the abstracts of votes for territorial officers; and the aforesaid acting secretary of state, auditor, treasurer, or any two of them, in the presence of the governor, shall proceed to canvass the votes, under the regulations of sections



thirty-five and thirty-six of chapter twenty-eight of the revised statutes of Colorado Territory.

SEC. 15. Senators and members of the house of representatives shall be chosen by the qualified electors of the several senatorial and representative districts, as established in this constitution, until such districts shall be changed by law, and thereafter by the qualified electors of the several districts as the same shall be established by law.

SEC. 16. The votes cast for Representatives in Congress at the first election held under this constitution shall be canvassed and the result determined in the manner provided by the laws of the Territory for the canvass of votes for Delegate in Congress.

SEC. 17. The provision of the constitution that no bill, except the general appropriation bill, introduced in either house after the first twenty-five days of the session, shall become a law, shall not apply to the first session of the general assembly; but no bill, introduced in either house at the first session of the general assembly after the first fifty days thereof, shall become a law.

SEC. 18. A copy of the abstracts of the votes cast at the first general election held under this constitution shall, by the county clerks of the several counties, be returned to the secretary of the Territory immediately after the canvass of said votes in their several counties; and the secretary, auditor, and treasurer of the Territory, or any two of them, shall, on the twenty-fifth day after the election, meet at the seat of government and proceed to canvass the votes cast for members of the general assembly, and determine the result thereof.

SEC. 19. The general assembly shall, at their first session, immediately after the organization of the two houses, and after the canvass of the votes for the officers of the executive department, and before proceeding to other business, provide, by act or joint resolution, for the appointment by said general assembly of electors in the electoral college; and such joint resolution, or the bill for such enactment, may be passed without being printed, or referred to any committee, or read on more than one day in either house, and shall take effect immediately after the concurrence of the two houses therein; and the approval of the governor thereto shall not be necessary.

SEC. 20. The general assembly shall provide that after the year one thousand eight hundred and seventy-six the electors of the electoral college shall be chosen by direct vote of the people.

SEC. 21. The general assembly shall have power, at their first session, to provide for the payment of the expenses of this convention, if any there be then remaining unpaid.

SEC. 22. All recognizances, bail-bonds, official bonds, and other obligations or undertakings which have been, or at any time before the admission of the State shall be, made or entered into and expressed to be payable to the people of the Territory of Colorado, shall continue in full force, notwithstanding the change in the form of government; and any breach thereof, whenever occurring, may, after the admission of the State, be prosecuted in the name of the people of the State.

Done in convention, at the city of Denver, Colorado, this fourteenth day of March, in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States the one hundredth.

In witness whereof we have hereunto subscribed our names.

J. C. WILSON, *President.*

Attest:

W. W. COULSON, *Secretary.*
HERBERT STANLEY, *First Assistant Secretary.*
H. A. TERPENNING, *Second Assistant Secretary.*

CONNECTICUT.*

FUNDAMENTAL ORDERS OF CONNECTICUT—1638–'39.†

FORASMUCH as it hath pleased the Allmighty God by the wise disposition of his diuyne p^{r}uidence so to Order and dispose of things that we the Inhabitants and Residents of Windsor, Harteford and Wethersfield are now cohabiting and dwelling in and vppon the River of Conectecotte and the Lands thereunto adioyneing; And well knowing where a people are gathered togather the word of God requires that to mayntayne the peace and vnion of such a people there should be an orderly and decent Gouerment established according to God, to order and dispose of the affayres of the people at all seasons as occation shall require; doe therefore assotiate and conioyne our selues to be as one Publike State or Comonwelth; and doe, for our selues and our Successors and such as shall be adioyned to vs att any tyme hereafter, enter into Combination and Confederation togather, to mayntayne and p^{r}searue the liberty and purity of the gospell of our Lord Jesus w^{ch} we now p^{r}fesse, as also the disciplyne of the Churches, w^{ch} according to the truth of the said gospell is now practised amongst vs; As also in o^{r} Ciuell Affaires to be guided and gouerned according to such Lawes, Rules, Orders and decrees as shall be made, ordered & decreed, as followeth:—

1. It is Ordered, sentenced and decreed, that there shall be yerely two generall Assemblies or Courts, the on the second thursday in Aprill, the other the second thursday in September, following; the first shall be called the Courte of Election, wherein shall be yerely Chosen frō tyme to tyme soe many Magestrats and other publike Officers as shall be found requisitte: Whereof one to be chosen Gouernour for the yeare ensueing and vntill another be chosen, and noe other Magestrate to be chosen for more then one yeare; p^{r}uided allwayes there be sixe chosen besids the Gouernour; w^{ch} being chosen and sworne according to an Oath recorded for that purpose shall haue power to administer iustice according to the Lawes here established, and for want thereof according to the rule of the word of God; w^{ch} choise shall be made by all that are admitted freemen and haue taken the Oath of Fidellity, and doe cohabitte wthin this Jurisdiction, (hauing beene admitted Inhabitants by the maior p^{r}t of the Towne wherein they liue,‡) or the mayor p^{r}te of such as shall be then p^{r}sent.

2. It is Ordered, sentensed and decreed, that the Election of the aforesaid Magestrats shall be on this manner: euery p^{r}son p^{r}sent and quallified for choyse shall bring in (to the p^{r}sons deputed to receaue thē) one single pap^{r} wth the name of him written in yt whom he desires to haue Gouernour, and he that hath the greatest nūber of papers shall be Gouernor for that yeare. And the rest of the Magestrats or publike Officers to be chosen in this manner: The Secretary for the tyme being shall first read the names of all that are to be put to choise and then shall seuerally nominate

* A provisional government was instituted, under a commission from the General Court of Massachusetts (March 3, 1636) to eight of the persons who "had resolved to transplant themselves and their estates unto the River of Connecticut," "that commission taking rise from the desire of the people that removed, who judged it inconvenient to go away without any frame of government,—not from any claim of the Massachusetts of jurisdiction over them by virtue of Patent."

† Springfield withdrew in 1637 from the association, and the remaining towns,—Windsor, Hartford and Wethersfield,—formed this voluntary compact or constitution on the 14th of January, 1638–'39.

‡ This clause has been interlined in a different handwriting, and at a more recent period.

them distinctly, and euery one that would haue the p^{r}son nominated to be chosen shall bring in one single paper written vppon, and he that would not haue him chosen shall bring in a blanke: and euery one that hath more written papers then blanks shall be a Magistrat for that yeare; w^{ch} papers shall be receaued and told by one or more that shall be then chosen by the court and sworne to be faythfull therein; but in case there should not be sixe chosen as aforesaid, besids the Gouernor, out of those w^{ch} are nominated, then he or they w^{ch} haue the most written pap^{r}s shall be a Magestrate or Magestrats for the ensueing yeare, to make vp the foresaid nūber.

3. It is Ordered, sentenced and decreed, that the Secretary shall not nominate any p^{r}son, nor shall any p^{r}son be chosen newly into the Magestracy w^{ch} was not p^{r}pownded in some Generall Courte before, to be nominated the next Election; and to that end yt shall be lawfull for ech of the Townes aforesaid by their deputyes to nominate any two whō they conceaue fitte to be put to election; and the Courte may ad so many more as they iudge requisitt.

4. It is Ordered, sentenced and decreed that noe p^{r}son be chosen Gouernor aboue once in two yeares, and that the Gouernor be always a mēber of some approved congregation, and formerly of the Magestracy wthin this Jurisdiction; and all the Magestrats Freemen of this Com̄onwelth: and that no Magestrate or other publike officer shall execute any p^{r}te of his or their Office before they are seuerally sworne, w^{ch} shall be done in the face of the Courte if they be p^{r}sent, and in case of absence by some deputed for that purpose.

5. It is Ordered, sentenced and decreed, that to the aforesaid Courte of Election the seu^{r}all Townes shall send their deputyes, and when the Elections are ended they may p^{r}ceed in any publike searuice as at other Courts. Also the other Generall Courte in September shall be for makeing of lawes, and any other publike occation, w^{ch} conserns the good of the Com̄onwelth.

6. It is Ordered, sentenced and decreed, that the Gou^{r}nor shall, ether by himselfe or by the secretary, send out sum̄ons to the Constables of eu^r Towne for the cauleing of these two standing Courts, on month at lest before their seu^{r}all tymes: And also if the Gou^{r}nor and the gretest p^{r}te of the Magestrats see cause vppon any spetiall occation to call a generall Courte, they may giue order to the secretary soe to doe wthin fowerteene dayes warneing; and if vrgent necessity so require, vppon a shorter notice, giueing sufficient grownds for yt to the deputyes when they meete, or els be questioned for the same; And if the Gou^{r}nor and Mayor p^{r}te of Magestrats shall ether neglect or refuse to call the two Generall standing Courts or ether of thē, as also at other tymes when the occations of the Com̄onwelth require, the Freemen thereof, or the Mayor p^{r}te of them, shall petition to them soe to doe: if then yt be ether denyed or neglected the said Freemen or the Mayor p^{r}te of them shall haue power to giue order to the Constables of the seuerall Townes to doe the same, and so may meete togather, and chuse to themselues a Moderator, and may p^{r}ceed to do any Acte of power, w^{ch} any other Generall Courte may.

7. It is Ordered, sentenced and decreed that after there are warrants giuen out for any of the said Generall Courts, the Constable or Constables of ech Towne shall forthwth give notice distinctly to the inhabitants of the same, in some Publike Assembly or by goeing or sending frō howse to howse, that at a place and tyme by him or them lymited and sett, they meet and assemble thōselues togather to elect and chuse certen deputyes to be att the Generall Courte then following to agitate the afayres of the com̄onwelth; w^{ch} said Deputyes shall be chosen by all that are admitted Inhabitants in the seu^{r}all Townes and haue taken the oath of fidellity; p^{r}uided that non be chosen a Deputy for any Generall Courte w^{ch} is not a Freeman of this Com̄onwelth.

The foresaid deputyes shall be chosen in manner following: euery p^{r}son that is p^{r}sent and quallified as before exp^{r}ssed, shall bring the names of such, written in seu^{r}rall papers. as they desire to haue chosen for that Imployment, and these 3 or 4, more or lesse, being the nūber agreed on to be chosen for that tyme, that haue greatest nūber of papers written for thē shall be deputyes for that Courte; whose names shall be endorsed on the backe side of the warrant and returned into the Courte, wth the Constable or Constables hand vnto the same.

8. It is Ordered, sentenced and decreed, that Wyndsor, Hartford and Wethersfield



shall haue power, ech Towne, to send fower of their freemen as deputyes to euery Generall Courte; and whatsoeuer other Townes shall be hereafter added to this Jurisdiction, they shall send so many deputyes as the Courte shall judge meete, a resonable p^{r}portion to the nūber of Freemen that are in the said Townes being to be attended therein; w^{ch} deputyes shall have the power of the whole Towne to giue their voats and alowance to all such lawes and orders as may be for the publike good, and unto w^{ch} the said Townes are to be bownd.

9. It is ordered and decreed, that the deputyes thus chosen shall haue power and liberty to appoynt a tyme and a place of meeting togather before any Generall Courte to aduise and consult of all such things as may concerne the good of the publike, as also to examine their owne Elections, whether according to the order, and if they or the gretest p^{r}te of them find any election to be illegall they may seclud such for p^{r}sent frō their meeting, and returne the same and their resons to the Courte; and if yt proue true, the Courte may fyne the p^{r}ty or p^{r}tyes so intruding and the Towne, if they see cause, and giue out a warrant to goe to a newe election in a legall way, either in p^{r}te or in whole. Also the said deputyes shall haue power to fyne any that shall be disorderly at their meetings, or for not com̄ing in due tyme or place according to appoyntment; and they may returne the said fynes into the Courte if yt be refused to be paid, and the tresurer to take notice of yt, and to estreete or levy the same as he doth other fynes.

10. It is Ordered, sentenced and decreed, that euery Generall Courte, except such as through neglecte of the Gou^{r}nor and the greatest p^{r}te of Magestrats the Freemen themselves doe call, shall consist of the Gouernor, or some one chosen to moderate the Court, and 4 other Magestrats at lest, wth the mayor p^{r}te of the deputyes of the seuerall Townes legally chosen; and in case the Freemen or mayor p^{r}te of thē, through neglect or refusall of the Gouernor and mayor p^{r}te of the magestrats, shall call a Courte, y^{t} shall consist of the mayor p^{r}te of Freemen that are p^{r}sent or their deputyes, wth a Moderator chosen by thē: In w^{ch} said Generall Courts shall consist the supreme power of the Com̄onwelth, and they only shall haue power to make laws or repeale thē, to graunt leuyes, to admitt of Freemen, dispose of lands vndisposed of,, to seuerall Townes or p^{r}sons, and also shall haue power to call ether Courte or Magestrate or any other p^{r}son whatsoeuer into question for any misdemeanour, and may for just causes displace or deale otherwise according to the nature of the offence; and also may deale in any other matter that concerns the good of this com̄on welth, excepte election of Magestrats, w^{ch} shall be done by the whole boddy of Freemen.

In w^{ch} Courte the Gouernour or Moderator shall haue power to order the Courte to giue liberty of spech, and silence vnceasonable and disorderly speakeings, to put all things to voate, and in case the vote be equall to haue the casting voice. But non of these Courts shall be adiorned or dissolued wthout the consent of the maior p^{r}te of the Court.

11. It is ordered, sentenced and decreed, that when any Generall Courte vppon the occations of the Com̄onwelth haue agreed vppon any sum̄e or som̄es of mony to be leuyed vppon the seuerall Townes wthin this Jurisdiction, that a Com̄ittee be chosen to sett out and appoynt w^{t} shall be the p^{r}portion of euery Towne to pay of the said leuy, p^{r}vided the Com̄ittees be made vp of an equall nūber out of each Towne.

14th January, 1638, the 11 Orders abouesaid are voted.

THE OATH OF THE GOU^{R}NOR, FOR THE [P^{R}SENT.]

I N. W. being now chosen to be Gou^{r}nor wthin this Jurisdiction, for the yeare ensueing, and vntil a new be chosen, doe sweare by the greate and dreadfull name of the everliueing God, to p^{r}mote the publicke good and peace of the same, according to the best of my skill; as also will mayntayne all lawfull priuiledges of this Com̄onwealth; as also that all wholsome lawes that are or shall be made by lawfull authority here established, be duly executed; and will further the execution of Justice according to the rule of Gods word; so helpe me God, in the name of the Lo: Jesus Christ.



THE OATH OF A MAGESTRATE, FOR THE P^r^SENT.

I, N. W. being chosen a Magestrate w^th^in this Jurisdiction for the yeare ensueing, doe sweare by the great and dreadfull name of the euerliueing God, to p^r^mote the publike good and peace of the same, according to the best of my skill, and that I will mayntayne all the lawfull priuiledges thereof according to my vnderstanding, as also assist in the execution of all such wholsome lawes as are made or shall be made by lawfull authority heare established, and will further the execution of Justice for the tyme aforesaid according to the righteous rule of Gods word; so helpe me God, etc.

CHARTER OF CONNECTICUT—1662.*

CHARLES the Second, by the Grace of GOD, KING of *England, Scotland, France*, and *Ireland*, Defender of the Faith, &c. To all to whom these Presents shall come, GREETING.

Whereas by the several Navigations, Discoveries, and Successful Plantations of divers of Our loving Subjects of this Our Realm of England, *several Lands, Islands, Places, Colonies, and Plantations have been obtained and settled in that Part of the Continent of* America *called* New-England, *and thereby the Trade and Commerce there, hath been of late Years much increased: And whereas We have been informed by the humble Petition of our Trusty and Well beloved* John Winthrop, John Mason, Samuel Wyllys, Henry Clarke, Matthew Allyn, John Tapping, Nathan Gold, Richard Treat, Richard Lord, Henry Wolcott, John Talcott, Daniel Clarke, John Ogden, Thomas Wells, Obadiah Bruen, John Clarke, Anthony Hawkins, John Deming, *and* Matthew Camfield, *being Persons principally interested in Our Colony or Plantation of* Connecticut, *in* New-England, *that the same Colony, or the greatest part thereof, was Purchased and obtained for great and valuable Considerations, and some other Part thereof gained by Conquest, and with much difficulty, and at the only Endeavors, Expence, and Charges of them and their Associates, and those under whom they Claim, Subdued, and Improved, and thereby become a considerable Enlargement and Addition of Our Dominions and Interest there.* NOW KNOW YE, That in Consideration thereof, and in Regard the said Colony is remote from other the *English* Plantations in the Places aforesaid, and to the End the Affairs and Business which shall from Time to Time happen or arise concerning the same, may be duly Ordered and Managed, we have thought fit, and at the humble Petition of the Persons aforesaid, and are graciously Pleased to create and make them a Body Politick and Corporate, with the Powers and Privileges herein after mentioned; and accordingly Our Will and Pleasure is, and of our especial Grace, certain Knowledge, and meer Motion, We have ordained, constituted and declared, and by these Presents, for Us, Our Heirs and Successors, Do ordain, constitute and declare, that they the said *John Winthrop, John Mason, Samuel Wyllys, Henry Clarke, Matthew Allyn, John Tapping, Nathan Gold, Richard Treat, Richard Lord, Henry Wolcott, John Talcott, Daniel Clarke, John Ogden, Thomas Wells, Obadiah Bruen, John Clarke, Anthony Hawkins, John Deming*, and *Matthew Camfield*, and all such others as now are, or hereafter shall be admitted and made Free of the Company and Society of Our Colony of *Connecticut*, in *America*, shall from Time to Time, and for ever hereafter, be One Body Corporate and Politick, in Fact and Name, by the Name of, *Governor and Company of the* English *Colony of* Connecticut *in* New-England, *in* America; and that by the same Name they and their Successors shall and may have perpetual Succession, and shall and may be Persons able and capable in the Law, to plead and be impleaded, to answer and to be answered unto, to defend and be defended in all and singular Suits, Causes, Quarrels, Matters, Actions, and Things, of what Kind or Nature soever; and also to have, take, possess, acquire, and purchase Lands, Tenements, or Hereditaments, or any Goods, or Chattels, and the same to lease, grant, demise, alien, bargain, sell, and dispose of, as other Our liege People of this

* The Colonies of Hartford and New Haven had continued separate until they accepted this charter from King Charles, April 20, 1665. An attempt was made in 1687 to repeal this charter, but the colonists refused to surrender it, and after the accession of William and Mary, in 1689, it was again recognized.



Our Realm of *England*, or any other Corporation or Body Politick within the same may lawfully do. And further, That the said Governor and Company, and their Successors, shall and may forever hereafter have a common Seal, to serve and use for all Causes, Matters, Things, and affairs whatsoever, of them and their Successors, and the same Seal, to alter, change, break, and make new from Time to Time, at their Wills and Pleasures, as they shall think fit. And further, We will and ordain, and by these Presents, for Us, our Heirs and Successors, do declare and appoint, that for the better ordering and managing of the Affairs and Business of the said Company and their Successors, there shall be One Governor, One Deputy-Governor, and Twelve Assistants, to be from time to Time constituted, elected and chosen out of the Freemen of the said Company for the Time being, in such Manner and Form as hereafter in these Presents is expressed, which said Officers shall apply themselves to take Care for the best disposing and ordering of the general Business and affairs of and concerning the Land and Hereditaments herein after mentioned to be granted, and the Plantation thereof, and the Government of the People thereof: And for the better Execution of Our Royal Pleasure herein, We do for Us, Our Heirs, and Successors, assign, name, constitute and appoint the aforesaid *John Winthrop* to be the first and present Governor of the said Company, and the said *John Mason*, to be the Deputy-Governor, and the said *Samuel Wyllys*, *Matthew Allyn*, *Nathan Gold*, *Henry Clarke*, *Richard Treat*, *John Ogden*, *John Tapping*, *John Talcott*, *Thomas Wells*, *Henry Wolcott*, *Richard Lord*, and *Daniel Clarke*, to be the Twelve present assistants of the said Company, to continue in the said several Offices respectively, until the second Thursday which shall be in the Month of *October* now next coming. And further We Will, and by these Presents for Us, Our Heirs, and Successors, Do ordain and grant, That the Governor of the said Company for the Time being, or in his Absence by occasion of Sickness, or otherwise by his Leave or Permission, the Deputy-Governor for the Time being, shall and may from Time to Time upon all Occasions, give Order for the assembling of the said Company, and calling them together to consult and advise of the Business and Affairs of the said Company, and that for ever hereafter, twice in every Year, *That is to say*, On every Second Thursday in *October*, and on every Second Thursday in *May*, or oftener in case it shall be requisite; the Assistants, and Freemen of the said Company, or such of them (not exceeding Two Persons from each Place, Town, or City) who shall be from Time to Time thereunto elected or deputed by the major Part of the Freemen of the respective Towns, Cities, and Places for which they shall be elected or deputed, shall have a General Meeting, or Assembly, then and there to consult and advise in and about the Affairs and Business of the said Company: and that the Governor, or in his Absence the Deputy-Governor of the said Company for the Time being, and such of the Assistants and Freemen of the said Company as shall be so elected or deputed, and be present at such Meeting or Assembly, or the greatest Number of them, whereof the Governor or Deputy-Governor, and Six of the Assistants at least, to be Seven, shall be called the General Assembly, and shall have full Power and authority to alter and change their Days and Times of Meeting, or General Assemblies, for electing the Governor, Deputy-Governor, and Assistants, or other Officers, or any other Courts, Assemblies or Meetings, and to choose, nominate and appoint such and so many other Persons as they shall think fit, and shall be willing to accept the same, to be Free of the said Company and Body Politick, and them into the same to admit; And to elect and constitute such Officers as they shall think fit and requisite for the ordering, managing and disposing of the Affairs of the said Governor and Company, and their Successors: And we do hereby for Us, Our Heirs and Successors, establish and ordain, That once in the Year for ever hereafter, Namely, the said Second Thursday in *May*, the Governor, Deputy-Governor, and Assistants of the said Company, and other Officers of the said Company, or such of them as the said General Assembly shall think fit, shall be in the said General Court and Assembly to be held from that Day or Time, newly chosen for the Year ensuing, by such greater Part of the said Company for the Time being, then and there present; and if the Governor, Deputy-Governor, and Assistants by these Presents appointed, or such as hereafter be newly chosen into their Rooms, or any of them, or any other the Officers to be appointed

for the said Company shall die, or be removed from his or their several Offices or Places before the said general Day of Election, whom We do hereby declare for any Misdemeanor or Default, to be removable by the Governor, Assistants, and Company, or such greater Part of them in any of the said public Courts to be assembled, as is aforesaid, that then and in every such Case, it shall and may be lawful to and for the Governor, Deputy-Governor, and Assistants, and Company aforesaid, or such greater Part of them so to be assembled, as is aforesaid, in any of their Assemblies, to proceed to a new Election of one or more of their Company, in the Room or Place, Rooms or Places of such Governor, Deputy-Governor, Assistant, or other Officer or Officers so dying or removed, according to their Discretions, and immediately upon and after such Election or Elections made of such Governor, Deputy-Governor, Assistant or Assistants, or any other Officer of the said Company, in Manner and Form aforesaid, the Authority, Office and Power before given to the former Governor, Deputy-Governor, or other Officer and Officers so removed, in whose Stead and Place new shall be chosen, shall as to him and them, and every of them respectively, cease and determine. *Provided also*, And Our Will and Pleasure is, That as well such as are by these Presents appointed to be the present Governor, Deputy-Governor, and Assistants of the said Company, as those that shall succeed them, and all other Officers to be appointed and chosen, as aforesaid, shall before they undertake the Execution of their said Offices and Places respectively, take their several and respective corporal Oaths for the due and faithful Performance of their Duties, in their several Offices and Places, before such Person or Persons as are by these Presents hereafter appointed to take and receive the same; *That is to say*, The said *John Winthrop*, who is herein before nominated and appointed the present Governor of the said Company, shall take the said Oath before One or more of the Masters of Our Court of Chancery for the Time being, unto which Master of Chancery, We do by these Presents give full Power and Authority to administer the said Oath to the said *John Winthrop* accordingly: And the said *John Mason*, who is herein before nominated and appointed the present Deputy-Governor of the said Company, shall take the said Oath before the said *John Winthrop*, or any Two of the Assistants of the said Company, unto whom We do by these Presents give full Power and Authority to administer the said Oath to the said *John Mason* accordingly: And the said *Samuel Wyllys*, *Henry Clarke*, *Matthew Allyn*, *John Tapping*, *Nathan Gold*, *Richard Treat*, *Richard Lord*, *Henry Wolcott*, *John Talcott*, *Daniel Clarke*, *John Ogden*, and *Thomas Wells*, who are herein before nominated and appointed the present Assistants of the said Company, shall take the Oath before the said *John Winthrop*, and *John Mason*, or One of them, to whom We do hereby give full Power and Authority to administer the same accordingly. And Our further Will and Pleasure is, that all and every Governor, or Deputy-Governor to be elected and chosen by Virtue of these Presents, shall take the said Oath before Two or more of the Assistants of the said Company for the Time being, unto whom We do by these Presents give full Power and Authority to give and administer the said Oath accordingly; and the said Assistants, and every of them, and all and every other Officer or Officers to be hereafter chosen from Time to Time, to take the said Oath before the Governor, or Deputy-Governor for the Time being, unto which Governor, or Deputy-Governor, We do by these Presents give full Power and Authority to administer the same accordingly. And further, Of Our more ample Grace, certain Knowledge, and meer Motion, We have given and granted, and by these presents for Us, Our Heirs and Successors, do give and grant unto the said Governor and Company of the *English* Colony of *Connecticut*, in *New England*, in *America*, and to every Inhabitant there, and to every Person and Persons trading thither, and to every such Person and Persons as are or shall be Free of the said Colony, full Power and Authority from Time to Time, and at all Times hereafter, to take Ship, Transport and carry away for and towards the Plantation and Defence of the said Colony, such of Our loving Subjects and Strangers, as shall or will willingly accompany them in, and to their said Colony and Plantation, except such Person and Persons as are or shall be therein restrained by Us, Our Heirs and Successors; and also to ship and transport all, and all Manner of Goods, Chattels, Merchandises, and other Things whatsoever that are or shall be useful or necessary for the Inhabitants

of the said Colony, and may lawfully be transported thither; *Nevertheless*, not to be discharged of Payment to Us, our Heirs and Successors, of the Duties, Customs and Subsidies which are or ought to be paid or payable for the same. And further, Our Will and Pleasure is, and We do for Us, Our Heirs and Successors, ordain, declare, and grant unto the said Governor and Company, and their Successors, That all, and every the Subjects of Us, Our Heirs, or Successors, which shall go to inhabit within the said Colony, and every of their Children, which shall happen to be born there, or on the Seas in going thither, or returning from thence, shall have and enjoy all Liberties and Immunities of free and natural Subjects within any the Dominions of Us, Our Heirs or Successors, to all Intents, Constructions and Purposes whatsoever, as if they and every of them were born within the realm of *England;* And We do authorize and impower the Governor, or in his Absence the Deputy-Governor for the Time being, to appoint Two or more of the said Assistants at any of their Courts or Assemblies to be held as aforesaid, to have Power and Authority to administer the Oath of Supremacy and Obedience to all and every Person and Persons which shall at any Time or Times hereafter go or pass into the said Colony of *Connecticut*, unto which said Assistants so to be appointed as aforesaid, We do by these Presents give full Power and Authority to administer the said Oath accordingly. And We do further of Our especial Grace, certain Knowledge, and meer Motion, give, and grant unto the said Governor and Company of the English Colony of *Connecticut*, in *New-England*, in *America*, and their Successors, That it shall and may be lawful to and for the Governor, or Deputy-Governor, and such of the Assistants of the said Company for the Time being as shall be assembled in any of the General Courts aforesaid, or in any Courts to be especially summoned or assembled for that Purpose, or the greater part of them, whereof the Governor, or Deputy-Governor, and Six of the Assistants to be always Seven, to erect and make such Judicatories, for the hearing, and determining of all Actions, Causes, Matters, and Things happening within the said Colony, or Plantation, and which shall be in Dispute, and Depending there, as they shall think Fit, and Convenient, and also from Time to Time to Make, Ordain, and Establish all manner of wholesome, and reasonable Laws, Statutes, Ordinances, Directions, and Instructions, not Contrary to the Laws of this Realm of *England*, as well for settling the Forms, and Ceremonies of Government, and Magistracy, fit and necessary for the said Plantation, and the Inhabitants there, as for Naming, and Stiling all Sorts of Officers, both Superior and Inferior, which they shall find Needful for the Government, and Plantation of the said Colony, and the distinguishing and setting forth of the several Duties, Powers, and Limits of every such Office and Place, and the Forms of such Oaths not being contrary to the Laws and Statutes of this Our Realm of *England*, to be administered for the Execution of the said several Offices and Places as also for the disposing and ordering of the Election of such of the said Officers as are to be annually chosen, and of such others as shall succeed in case of Death or Removal, and administering the said Oath to the newly-elected Officers, and granting necessary Commissions, and for Imposition of lawful Fines, Mulcts, Imprisonment or other Punishment upon Offenders and Delinquents according to the Course of other Corporations within this our Kingdom of *England*, and the same Laws, Fines, Mulcts and Executions, to alter, change, revoke, annul, release, or pardon under their Common Seal, as by the said General Assembly, or the major Part of them shall be thought fit, and for the directing, ruling and disposing of all other Matters and things, whereby Our said People Inhabitants there, may be so religiously, peaceably and civilly governed, as their good Life and orderly Conversation may win and invite the Natives of the Country to the Knowledge and Obedience of the only true GOD, and the Saviour of Mankind, and the Christian Faith, which in Our Royal Intentions, and the adventurers free Possession, is the only and principal End of this Plantation; willing, commanding and requiring, and by these Presents for Us, Our Heirs and Successors, ordaining and appointing, that all such Laws, Statutes and Ordinances, Instructions, Impositions and Directions as shall be so made by the Governor, Deputy-Governor, and Assistants as aforesaid, and published in Writing under their Common Seal, shall carefully and duly be observed, kept, performed, and put in Execution, according to the true Intent and Meaning of the same, and these Our Letters Patents,

or the Duplicate, or Exemplification thereof, shall be to all and every such Officers, Superiors and Inferiors from Time to Time, for the putting of the same Orders, Laws, Statutes, Ordinances, Instructions, and Directions in due Execution, against Us, Our Heirs and Successors, a sufficient Warrant and Discharge. And We do further for Us, Our Heirs and Successors, give and grant unto the said Governor and Company, and their Successors, by these Presents, That it shall and may be lawful to, and for the Chief Commanders, Governors and Officers of the said Company for the Time being, who shall be resident in the Parts of *New-England* hereafter mentioned, and others inhabiting there, by their Leave, Admittance, Appointment, or Direction, from Time to Time, and at all Times hereafter, for their special Defence and Safety, to Assemble, Martial-Array, and put in warlike Posture the Inhabitants of the said Colony, and to Commissionate, Impower, and Authorize such Person or Persons as they shall think fit, to lead and conduct the said Inhabitants, and to encounter, expulse, repel and resist by Force of Arms, as well by Sea as by Land, and also to kill, slay, and destroy by all fitting Ways, Enterprises, and Means whatsoever, all and every such Person or Persons as shall at any Time hereafter attempt or enterprize the Destruction, Invasion, Detriment, or Annoyance of the said Inhabitants or Plantation, and to use and exercise the Law Martial in such Cases only as Occasion shall require; and to take or surprize by all Ways and Means whatsoever, all and every such Person and Persons, with their Ships, Armour, Ammunition and other Goods of such as shall in such hostile Manner invade or attempt the defeating of the said Plantation, or the hurt of the said Company and Inhabitants, and upon just Causes to invade and destroy the Natives, or other Enemies of the said Colony. *Nevertheless*, Our Will and Pleasure is, and We do hereby declare unto all Christian Kings, Princes, and States, that if any Persons which shall hereafter be of the said Company or Plantation, or any other by Appointment of the said Governor and Company for the Time being, shall at any Time or Times hereafter rob or spoil by Sea or by Land, and do any Hurt, Violence, or unlawful Hostility to any of the Subjects of Us, Our Heirs or Successors, or any of the Subjects of any Prince or State, being then in League with Us, Our Heirs or Successors, upon Complaint of such Injury done to any such Prince or State, or their Subjects, We, Our Heirs and Successors will make open Proclamation within any Parts of Our Realm of *England* fit for that Purpose, that the Person or Persons committing any such Robbery or Spoil, shall within the Time limited by such Proclamation, make full Restitution or Satisfaction of all such Injuries done or committed, so as the said Prince, or others so complaining may be fully satisfied and contented; and if the said Person or Persons who shall commit any such Robbery or Spoil shall not make Satisfaction accordingly, within such Time so to be limited, that then it shall and may be lawful for Us, Our Heirs and Successors, to put such Person or Persons out of Our Allegiance and Protection; and that it shall and may be lawful and free for all Princes or others to prosecute with Hostility such Offenders, and every of them, their, and every of their Procurors, Aiders, Abettors and Counsellors in that Behalf. *Provided also*, and Our express Will and Pleasure is, and We do by these Presents for Us, Our Heirs, and Successors, Ordain and Appoint, that these Presents shall not in any Manner hinder any of Our loving Subjects whatsoever to use and exercise the Trade of Fishing upon the Coast of *New-England*, in *America*, but they and every or any of them shall have full and free Power and Liberty, to continue, and use the said Trade of Fishing upon the said Coast, in any of the Seas thereunto adjoining, or any Arms of the Seas, or Salt Water Rivers where they have been accustomed to fish, and to build and set up on the waste Land belonging to the said Colony of *Connecticut*, such Wharves, Stages, and Work-Houses as shall be necessary for the salting, drying, and keeping of their Fish to be taken, or gotten upon that Coast, any Thing in these Presents contained to the contrary notwithstanding. And Know Ye further, That We, of Our abundant Grace, certain Knowledge, and mere Motion, have given, granted, and confirmed, and by these Presents for Us, our Heirs and Successors, do give, grant and confirm unto the said Governor and Company, and their Successors, all that Part of Our Dominions in *New-England* in *America*, bounded on the *East* by *Narraganset-River*, commonly called *Narraganset-Bay*, where the said River falleth into the Sea; and on the *North*

by the Line of the *Massachusetts-Plantation;* and on the *South* by the Sea; and in Longitude as the Line of the *Massachusetts-Colony*, running from *East* to *West*, *That is to say*, From the said *Narraganset-Bay* on the *East*, to the *South* Sea on the *West* Part, with the *Islands* thereunto adjoining, together with all firm Lands, Soils, Grounds, Havens, Ports, Rivers, Waters, Fishings, Mines, Minerals, precious Stones, Quarries, and all and singular other Commodities, Jurisdictions, Royalties, Privileges, Franchises, Preheminences, and Hereditaments whatsoever, within the said Tract, Bounds, Lands, and Islands aforesaid, or to them or any of them belonging. *To have and to hold* the same unto the said Governor and Company, their Successors and Assigns for ever, upon Trust, and for the Use and Benefit of Themselves and their Associates, Freemen of the said Colony, their Heirs and Assigns, to be holden of Us, Our Heirs and Successors, as of Our Manor of *East-Greenwich*, in free and common Soccage, and not in Capite, nor by Knights Service, yielding and paying therefore to Us, Our Heirs and Successors, only the Fifth Part of all the Ore of Gold and Silver which from Time to Time, and at all Times hereafter, shall be there gotton, had, or obtained, in Lieu of all Services, Duties, and Demands whatsoever, to be to Us, our Heirs, or Successors therefore, or thereout rendered, made, or paid. *And lastly*, We do for Us, our Heirs and Successors, grant to the said Governor and Company, and their Successors, by these Presents, That these Our Letters Patents, shall be firm, good and effectual in the Law, to all Intents, Constructions, and Purposes whatsoever, according to Our true Intent and Meaning herein before declared, as shall be construed, reputed and adjudged most favourable on the Behalf, and for the best Benefit, and Behoof of the said Governor and Company, and their Successors, although express Mention of the true Yearly Value or Certainty of the Premises, or of any of them, or of any other Gifts or Grants by Us, or by any of Our Progenitors, or Predecessors, heretofore made to the said Governor and Company of the *English* Colony of *Connecticut*, in *New-England*, in *America*, aforesaid, in these Presents is not made, or any Statute, Act, Ordinance, Provision, Proclamation, or Restriction heretofore had, made, enacted, ordained, or provided, or any other Matter, Cause, or Thing whatsoever, to the contrary thereof, in any wise notwithstanding. *In Witness whereof*, We have caused these Our Letters to be made Patents. Witness Ourself at *Westminster*, the Three and Twentieth Day of *April*, in the Fourteenth Year of our Reign.

By Writ of Privy Seal,

HOWARD.

CONSTITUTION OF CONNECTICUT—1776.*

An Act containing an Abstract and Declaration of the Rights and Privileges of the People of this State, and securing the same.

The People of this State, being by the Providence of God, free and independent, have the sole and exclusive Right of governing themselves as a free, sovereign, and independent State; and having from their Ancestors derived a free and excellent Constitution of Government whereby the Legislature depends on the free and annual Election of the People, they have the best Security for the Preservation of their civil and religious Rights and Liberties. And forasmuch as the free Fruition of such Liberties and Privileges as Humanity, Civility and Christianity call for, as is due to every Man in his Place and Proportion, without Impeachment and Infringement, hath ever been, and will be the Tranquility and Stability of Churches and Commonwealths; and the Denial thereof, the Disturbance, if not the Ruin of both.

PARAGRAPH 1. *Be it enacted and declared by the Governor, and Council, and House of Representatives, in General Court assembled*, That the ancient Form of Civil Government, contained in the Charter from *Charles* the Second, King of *England*, and

* This continued the charter of 1662 in force as the organic law of the State.

adopted by the People of this State, shall be and remain the Civil Constitution of this State, under the sole authority of the People thereof, independent of any King or Prince whatever. And that this Republic is, and shall forever be and remain, a free, sovereign and independent State, by the Name of the STATE OF CONNECTICUT.

2. *And be it further enacted and declared*, That no Man's Life shall be taken away: No Man's Honor or good Name shall be stained: No Man's Person shall be arrested, restrained, banished, dismembered, nor any Ways punished: No Man shall be deprived of his Wife or Children: No Man's Goods or Estate shall be taken away from him, nor any Ways indamaged under the Colour of Law, or Countenance of Authority; unless clearly warranted by the Laws of this State.

3. That all the free Inhabitants of this or any other of the United States of *America*, and Foreigners in Amity with this State, shall enjoy the same justice and Law within this State, which is general for the State, in all Cases proper for the Cognizance of the Civil Authority and Court of Judicature within the same, and that without Partiality or Delay.

4. And that no Man's Person shall be restrained, or imprisoned, by any authority whatsoever, before the Law hath sentenced him thereunto, if he can and will give sufficient Security, Bail, or Mainprize for his Appearance and good Behaviour in the mean Time, unless it be for Capital Crimes, Contempt in open Court, or in such Cases wherein some express Law doth allow of, or order the same.

CONSTITUTION OF CONNECTICUT—1818.*

PREAMBLE.

The people of Connecticut, acknowledging with gratitude the good providence of God, in having permitted them to enjoy a free government, do, in order more effectually to define, secure, and perpetuate the liberties, rights, and privileges which they have derived from their ancestors, hereby, after a careful consideration and revision, ordain and establish the following constitution and form of civil government:

ARTICLE I.

DECLARATION OF RIGHTS.

That the great and essential principles of liberty and free government may be recognized and established, we declare:

SECTION 1. That all men, when they form a social compact, are equal in rights; and that no man, or set of men, are entitled to exclusive public emoluments or privileges from the community.

SEC. 2. That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and that they have at all times an undeniable and indefeasible right to alter their form of government in such manner as they may think expedient.

SEC. 3. The exercise and enjoyment of religious profession and worship, without discrimination, shall forever be free to all persons in this State, provided that the right hereby declared and established shall not be so construed as to excuse acts of licentiousness, or to justify practices inconsistent with the peace and safety of the State.

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*This constitution was framed by a convention which met at Hartford in August, 1818, and it was adopted by the people October 5, 1818, receiving 13,918 votes against 12,361 votes.

SEC. 4. No preference shall be given by law to any Christian sect or mode of worship.

SEC. 5. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

SEC. 6. No law shall ever be passed to curtail or restrain the liberty of speech or of the press.

SEC. 7. In all prosecutions or indictments for libels the truth may be given in evidence, and the jury shall have the right to determine the law and the facts, under the direction of the court.

SEC. 8. The people shall be secure in their persons, houses, papers, and possessions from unreasonable searches or seizures; and no warrant to search any place, or to seize any person or things, shall issue, without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 9. In all criminal prosecutions the accused shall have a right to be heard, by himself and by counsel; to demand the nature and cause of the accusation; to be confronted by the witnesses against him; to have compulsory process to obtain witnesses in his favor; and in all prosecutions by indictment or information a speedy public trial by an impartial jury. He shall not be compelled to give evidence against himself, nor be deprived of life, liberty, or property, but by due course of law. And no person shall be holden to answer for any crime, the punishment of which may be death or imprisonment for life, unless on a presentment or an indictment of a grand jury, except in the land or naval forces, or in the militia, when in actual service, in time of war or public danger.

SEC. 10. No person shall be arrested, detained, or punished, except in cases clearly warranted by law.

SEC. 11. The property of no person shall be taken for public use without just compensation therefor.

SEC. 12. All courts shall be open, and every person, for an injury done to him in his person, property, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.

SEC. 13. Excessive bail shall not be required, nor excessive fines imposed.

SEC. 14. All prisoners shall, before conviction, be bailable by sufficient sureties, except for capital offences, where the proof is evident, or the presumption great; and the privileges of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it, nor in any case but by the legislature.

SEC. 15. No person shall be attainted of treason or felony by the legislature.

SEC. 16. The citizens have a right, in a peaceable manner, to assemble for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

SEC. 17. Every citizen has a right to bear arms in defence of himself and the State.

SEC. 18. The military shall in all cases, and at all times, be in strict subordination to the civil power.

SEC. 19. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

SEC. 20. No hereditary emoluments, privileges, or honors shall ever be granted or conferred in this State.

SEC. 21. The right of trial by jury shall remain inviolate.

ARTICLE II.

OF THE DISTRIBUTION OF POWERS.

The powers of government shall be divided into three distinct departments, and each of them confided to a separate magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

ARTICLE III.

OF THE LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in two distinct houses or branches; the one to be styled the senate, the other the house of representatives, and both together the general assembly. The style of their laws shall be: *"Be it enacted by the senate and house of representatives in general assembly convened."*

SEC. 2. There shall be one stated session of the general assembly, to be holden each year, alternately at Hartford and New Haven, on the first Wednesday of May, and at such other times as the general assembly shall judge necessary; the first session to be holden at Hartford; but the person administering the office of governor may, on special emergencies, convene the general assembly at either of said places, at any other time. And in case of danger from the prevalence of contagious diseases in either of said places, or other circumstances, the person administering the office of governor may, by proclamation, convene said assembly at any other place in this State.

SEC. 3. The house of representatives shall consist of electors residing in towns from which they are elected. The number of representatives from each town shall be the same as at present practised and allowed. In case a new town shall hereafter be incorporated such new town shall be entitled to one representative only; and if such new town shall be made from one or more towns, the town or towns from which the same shall be made shall be entitled to the same number of representatives as at present allowed, unless the number shall be reduced by the consent of such town or towns.

SEC. 4. The senate shall consist of twelve members, to be chosen annually by the electors.

SEC. 5. At the meetings of the electors, held in the several towns in this State, in April annually, after the election of representatives, the electors present shall be called upon to bring in their written ballots for senators. The presiding officer shall receive the votes of the electors, and count and declare them in open meeting. The presiding officer shall also make duplicate lists of the persons voted for, and of the number of votes for each, which shall be certified by the presiding officer; one of which lists shall be delivered to the town clerk, and the other, within ten days after said meeting, shall be delivered, under seal, either to the secretary or to the sheriff of the county in which said town is situated; which list shall be directed to the secretary, with a superscription expressing the purport of the contents thereof. And each sheriff who shall receive such votes shall, within fifteen days after said meeting, deliver, or cause them to be delivered, to the secretary.

SEC. 6. The treasurer, secretary, and comptroller, for the time being, shall canvass the votes publicly. The twelve persons having the greatest number of votes for senators shall be declared to be elected; but, in cases where no choice is made by the electors, in consequence of an equality of votes, the house of representatives shall designate, by ballot, which of the candidates having such equal number of votes shall be declared to be elected. The return of votes, and the result of the canvass, shall be submitted to the house of representatives, and also to the senate, on the first day of the session of the general assembly, and each house shall be the final judge of the election, returns, and qualifications of its own members.

SEC. 7. The house of representatives, when assembled, shall choose a speaker, clerk, and other officers. The senate shall choose its clerk and other officers, except the president. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner, and under such penalties, as each house may prescribe.

SEC. 8. Each house shall determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 9. Each house shall keep a journal of its proceedings, and publish the same when required by one-fifth of its members, except such parts as, in the judgment of a majority, require secrecy. The yeas and nays of the members of either house shall, at the desire of one-fifth of those present, be entered on the journals.

SEC. 10. The senators and representatives shall, in all cases of civil process, be privileged from arrest during the session of the general assembly, and for four days before the commencement and after the termination of any session thereof. And for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 11. The debates of each house shall be public, except on such occasions as in the opinion of the house may require secrecy.

ARTICLE IV.

OF THE EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of the State shall be vested in a governor, who shall be chosen by the electors of the State, and shall hold his office for one year from the first Wednesday of May next succeeding his election, and until his successor be duly qualified. No person who is not an elector of this State, and who has not arrived at the age of thirty years, shall be eligible.

SEC. 2. At the meetings of the electors, in the respective towns, in the month of April in each year, immediately after the election of senators, the presiding officers shall call upon the electors to bring in their ballots for him whom they would elect to be governor, with his name fairly written. When such ballots shall have been received and counted, in the presence of the electors, duplicate lists of the persons voted for, and of the number of votes given for each, shall be made and certified by the presiding officer, one of which lists shall be deposited in the office of the town clerk, within three days, and the other, within ten days after the said election, shall be transmitted to the secretary, or to the sheriff of the county in which such election shall have been held. The sheriff receiving said votes shall deliver, or cause them to be delivered, to the secretary, within fifteen days next after said election. The votes so returned shall be counted by the treasurer, secretary, and comptroller, within the month of April. A fair list of the persons and number of votes given for each, together with the returns of the presiding officers, shall be, by the treasurer, secretary, and comptroller, made and laid before the general assembly then next to be holden, on the first day of the session thereof; and said assembly shall, after examination of the same, declare the person whom they shall find to be legally chosen, and give him notice accordingly. If no person shall have a majority of the whole number of said votes, or if two or more shall have an equal and the greatest number of said votes, then said assembly on the second day of their session, by joint ballot of both houses, shall proceed, without debate, to choose a governor from a list of the names of the two persons having the greatest number of votes, or of the names of the persons having an equal and highest number of votes so returned as aforesaid. The general assembly shall by law prescribe the manner in which all questions concerning the election of a governor or lieutenant-governor shall be determined.

SEC. 3. At the annual meetings of the electors, immediately after the election of governor, there also shall be chosen, in the same manner as is hereinbefore provided for the election of governor, a lieutenant-governor, who shall continue in office for the same time, and possess the same qualifications.

SEC. 4. The compensations of the governor, lieutenant-governor, senators, and representatives shall be established by law, and shall not be varied so as to take effect until after an election which shall next succeed the passage of the law establishing said compensation.

SEC. 5. The governor shall be captain-general of the militia of the State, except when called into the service of the United States.

SEC. 6. He may require information, in writing, from the officers in the executive department, on any subject relating to the duties of their respective offices.

SEC. 7. The governor, in case of a disagreement between the two houses of the

general assembly respecting the time of adjournment, may adjourn them to such time as he shall think proper, not beyond the day of the next stated session.

SEC. 8. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he shall deem expedient.

SEC. 9. He shall take care that the laws be faithfully executed.

SEC. 10. The governor shall have power to grant reprieves, after conviction, in all cases except those of impeachment, until the end of the next session of the general assembly, and no longer.

SEC. 11. All commissions shall be in the name and by authority of the State of Connecticut; shall be sealed with the State seal, signed by the governor, and attested by the secretary.

SEC. 12. Every bill which shall have passed both houses of the general assembly shall be presented to the governor. If he approves, he shall sign and transmit it to the secretary; but if not, he shall return it to the house in which it originated, with his objections, which shall be entered on the journals of the house; who shall proceed to reconsider the bill. If, after such reconsideration, that house shall again pass it, it shall be sent, with the objections, to the other house, which shall also reconsider it. If approved, it shall become a law. But, in such cases, the votes of both houses shall be determined by yeas and nays; and the names of the members voting for and against the bill shall be entered on the journals of each house respectively. If the bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it; unless the general assembly, by their adjournment, prevents its return, in which case it shall not be a law.

SEC. 13. The lieutenant-governor shall, by virtue of his office, be president of the senate, and have when in committee of the whole a right to debate, and, when the senate is equally divided, to give the casting vote.

SEC. 14. In case of the death, resignation, refusal to serve, or removal from office of the governor, or of his impeachment, or absence from the State, the lieutenant-governor shall exercise the powers and authority appertaining to the office of governor, until another be chosen at the next periodical election for governor, and be duly qualified; or until the governor impeached or absent shall be acquitted or return.

SEC. 15. When the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senate shall elect one of their members as president *pro tempore*. And if, during the vacancy of the office of governor, the lieutenant-governor shall die, resign, refuse to serve, or be removed from office, or if he shall be impeached, or absent from the State, the president of the senate *pro tempore* shall, in like manner, administer the government until he be superseded by a governor or lieutenant-governor.

SEC. 16. If the lieutenant-governor shall be required to administer the government, and shall, while in such administration, die or resign during the recess of the general assembly, it shall be the duty of the secretary, for the time being, to convene the senate for the purpose of choosing a president *pro tempore*.

SEC. 17. A treasurer shall annually be chosen by the electors at their meeting in April; and the votes shall be returned, counted, canvassed, and declared, in the same manner as is provided for the election of governor and lieutenant-governor; but the votes for treasurer shall be canvassed by the secretary and comptroller only. He shall receive all moneys belonging to the State, and disburse the same only as he may be directed by law. He shall pay no warrant or order for the disbursement of public money, until the same has been registered in the office of the comptroller.

SEC. 18. A secretary shall be chosen next after the treasurer, and in the same manner; and the votes for secretary shall be returned to, and counted, canvassed, and declared by the treasurer and comptroller. He shall have the safe-keeping and custody of the public records and documents, and particularly of the acts, resolutions, and orders of the general assembly, and record the same; and perform all such duties

as shall be prescribed by law. He shall be the keeper of the seal of the State, which shall not be altered.

SEC. 19. A comptroller of the public accounts shall be annually appointed by the general assembly. He shall adjust and settle all public accounts and demands, except grants and orders of the general assembly. He shall prescribe the mode of keeping and rendering all public accounts. He shall, *ex officio*, be one of the auditors of the accounts of the treasurer. The general assembly may assign to him other duties in relation to his office, and to that of the treasurer, and shall prescribe the manner in which his duties shall be performed.

SEC. 20. A sheriff shall be appointed in each county, by the general assembly, who shall hold his office for three years, removable by said assembly, and shall become bound, with sufficient sureties, to the treasurer of the State for the faithful discharge of the duties of his office, in such manner as shall be prescribed by law. In case the sheriff of any county shall die or resign, the governor may fill the vacancy occasioned thereby, until the same shall be filled by the general assembly.

SEC. 21. A statement of all receipts, payments, funds, and debts of the State shall be published, from time to time, in such manner, and at such periods, as shall be prescribed by law.

ARTICLE V.

OF THE JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State shall be vested in a supreme court of errors, a superior court, and such inferior courts as the general assembly shall, from time to time, ordain and establish; the powers and jurisdiction of which courts shall be defined by law.

SEC. 2. There shall be appointed in each county a sufficient number of justices of the peace, with such jurisdiction in civil and criminal cases as the general assembly may prescribe.

SEC. 3. The judges of the supreme court of errors, of the superior and inferior courts, and all justices of the peace, shall be appointed by the general assembly, in such manner as shall by law be prescribed. The judges of the supreme court, and of the superior court, shall hold their offices during good behavior; but may be removed by impeachment, and the governor shall also remove them on the address of two-thirds of the members of each house of the general assembly; all other judges and justices of the peace shall be appointed annually. No judge or justice of the peace shall be capable of holding his office after he shall arrive at the age of seventy years.

ARTICLE VI.

OF THE QUALIFICATIONS OF ELECTORS.

SECTION 1. All persons who have been, or shall hereafter, previous to the ratification of this constitution, be admitted freemen, according to the existing laws of this State, shall be electors.

SEC. 2. Every white male citizen of the United States who shall have gained a settlement in this State, attained the age of twenty-one years, and resided in the town in which he may offer himself to be admitted to the privilege of an elector at least six months preceding, and have a freehold estate of the yearly value of seven dollars in this State; or, having been enrolled in the militia, shall have performed military duty therein. for the term of one year next preceding the time he shall offer himself for admission, or, being liable thereto, shall have been, by authority of law, excused therefrom; or shall have paid a State tax within the year next preceding the time he shall present himself for such admission, and shall sustain a good moral character, shall, on his taking such oath as may be prescribed by law, be an elector.

SEC. 3. The privileges of an elector shall be forfeited by a conviction of bribery, forgery, perjury, duelling, fraudulent bankruptcy, theft, or other offence, for which an infamous punishment is inflicted.

SEC. 4. Every elector shall be eligible to any office in this State, except in cases provided for in this constitution.

SEC. 5. The selectmen and town clerk of the several towns shall decide on the qualifications of electors, at such times and in such manner as may be prescribed by law.

SEC. 6. Laws shall be made to support the privilege of free suffrage, prescribing the manner of regulating and conducting meetings of the electors, and prohibiting, under adequate penalties, all undue influence therein, from power, bribery, tumult, and other improper conduct.

SEC. 7. In all elections of officers of the State, or members of the general assembly, the votes of the electors shall be by ballot.

SEC. 8. At all elections of officers of the State or members of the general assembly the electors shall be privileged from arrest during their attendance upon, and going to and returning from the same, on any civil process.

SEC. 9. The meetings of the electors for the election of the several State officers, by law annually to be elected, and members of the general assembly of this State, shall be holden on the first Monday of April in each year.

ARTICLE VII.

OF RELIGION.

SECTION 1. It being the duty of all men to worship the Supreme Being, the great Creator and Preserver of the Universe, and their right to render that worship in the mode most consistent with the dictates of their consciences, no person shall by law be compelled to join or support, nor be classed with, or associated to, any congregation, church, or religious association; but every person now belonging to such congregation, church, or religious association, shall remain a member thereof until he shall have separated himself therefrom, in the manner hereinafter provided. And each and every society or denomination of Christians in this State shall have and enjoy the same and equal powers, rights, and privileges; and shall have power and authority to support and maintain the ministers or teachers of their respective denominations, and to build and repair houses for public worship by a tax on the members of any such society only, to be laid by a major vote of the legal voters assembled at any society meeting, warned and held according to law, or in any other manner.

SEC. 2. If any person shall choose to separate himself from the society or denomination of Christians to which he may belong, and shall leave a written notice thereof with the clerk of such society, he shall thereupon be no longer liable for any future expenses which may be incurred by said society.

ARTICLE VIII.

OF EDUCATION.

SECTION 1. The charter of Yale College, as modified by agreement with the corporation thereof, in pursuance of an act of the general assembly, passed in May, 1792, is hereby confirmed.

SEC. 2. The fund called the school fund shall remain a perpetual fund, the interest of which shall be inviolably appropriated to the support and encouragement of the public or common schools throughout the State, and for the equal benefit of all the people thereof. The value and amount of said fund shall, as soon as practicable, be ascertained in such manner as the general assembly may prescribe, published, and recorded in the comptroller's office; and no law shall ever be made authorizing said fund to be diverted to any other use than the encouragement and support of public or common schools among the several school societies, as justice and equity shall require.

ARTICLE IX.

OF IMPEACHMENTS.

SECTION 1. The house of representatives shall have the sole power of impeaching.

SEC. 2. All impeachments shall be tried by the senate. When sitting for that purpose they shall be on oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present. When the governor is impeached the chief-justice shall preside.

SEC. 3. The governor, and all other executive and judicial officers, shall be liable to impeachment; but judgment in such cases shall not extend further than to removal from office and disqualifications to hold any office of honor, trust, or profit under this State. The party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment according to law.

SEC. 4. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

ARTICLE X.

GENERAL PROVISIONS.

SECTION 1. Members of the general assembly, and all officers, executive and judicial, shall, before they enter on the duties of their respective offices, take the following oath or affirmation, to wit:

"You do solemnly swear (or affirm, as the case may be) that you will support the Constitution of the United States, and the constitution of the State of Connecticut, so long as you continue a citizen thereof; and that you will faithfully discharge, according to law, the duties of the office of ———, to the best of your abilities. So help you God."

SEC. 2. Each town shall annually elect selectmen, and such officers of local police as the laws may prescribe.

SEC. 3. The rights and duties of all corporations shall remain as if this constitution had not been adopted; with the exception of such regulations and restrictions as are contained in this constitution. All judicial and civil officers now in office, who have been appointed by the general assembly, and commissioned according to law, and all such officers as shall be appointed by the said assembly, and commissioned as aforesaid, before the first Wednesday of May next, shall continue to hold their offices until the first day of June next, unless they shall, before that time, resign, or be removed from office according to law. The treasurer and secretary shall continue in office until a treasurer and secretary shall be appointed under this constitution. All military officers shall continue to hold and exercise their respective offices until they shall resign or be removed according to law. All laws not contrary to, or inconsistent with, the provisions of this constitution, shall remain in force until they shall expire by their own limitation, or shall be altered or repealed by the general assembly, in pursuance of this constitution. The validity of all bonds, debts, contracts, as well of individuals as of bodies-corporate, or the State, of all suits, actions, or rights of action, both in law and equity, shall continue as if no change had taken place. The governor, lieutenant-governor, and general assembly, which is to be formed in October next, shall have and possess all the powers and authorities not repugnant to, or inconsistent with, this constitution, which they now have and possess, until the first Wednesday of May next.

SEC. 4. No judge of the superior court, or of the supreme court of errors; no member of Congress; no person holding any office under the authority of the United States; no person holding the office of treasurer, secretary, or comptroller; no sheriff or sheriff's deputy, shall be a member of the general assembly.

ARTICLE XI.

OF AMENDMENTS TO THE CONSTITUTION.

Whenever a majority of the house of representatives shall deem it necessary to alter or amend this constitution, they may propose such alterations and amendments; which proposed amendments shall be continued to the next general assembly, and be published with the laws which may have been passed at the same session; and if two-thirds of each house, at the next session of said assembly, shall approve the amendments proposed, by yeas and nays, said amendments shall, by the secretary, be transmitted to the town clerk in each town in the State, whose duty it shall be to present the same to the inhabitants thereof, for their consideration, at a town meeting, legally warned and held for that purpose; and, if it shall appear, in a manner to be provided by law, that a majority of the electors present at such meetings shall have approved such amendments, the same shall be valid, to all intents and purposes, as a part of this constitution.

Done in convention, on the fifteenth day of September, in the year of our Lord one thousand eight hundred and eighteen, and of the Independence of the United States the forty-third.

By order of the convention.

OLIVER WOLCOTT, *President.*

JAMES LANMAN,
ROBERT FAIRCHILD,
Clerks.

AMENDMENTS TO THE CONSTITUTION OF 1818.

RATIFIED NOVEMBER, 1828.

ARTICLE I. From and after the first Wednesday of May, in the year of our Lord one thousand eight hundred and thirty, the senate of this State shall consist of not less than eighteen nor more than twenty-four members, and be chosen by districts.

RATIFIED NOVEMBER, 1828.

ART. II. The general assembly, which shall be holden on the first Wednesday of May, in the year one thousand eight hundred and twenty-nine, shall divide the State into districts for the choice of senators, and shall determine what number shall be elected in each, which districts shall not be less than eight nor more than twenty-four in number, and shall always be composed of contiguous territory, and in forming them no town shall be divided; nor shall the whole or part of one county be joined to the whole or part of another county to form a district, regard being had to the population in said apportionment, and in forming said districts in such manner that no county shall have less than two senators. The districts, when established, shall continue the same until the session of the general assembly next after the completion of the next census of the United States; which said assembly shall have power to alter the same, if found necessary to preserve a proper equality between said districts in respect to the number of inhabitants therein, according to the principles above recited; after which said districts shall not be altered, nor the number of senators altered, except at any session of the general assembly next after the completion of a census of the United States, and then only according to the principles above prescribed.

RATIFIED NOVEMBER, 1828.

ART. III. At the meeting of the electors on the first Monday of April, in the year one thousand eight hundred and thirty, and annually thereafter, immediately after the choice of representatives, the electors qualified by law to vote in the choice of such rep-

resentatives, shall be called upon, by the presiding officer in such meeting, in the several towns within their districts, respectively, to bring in their ballots for such person or number of persons to be senator or senators for such districts in the next general assembly as shall by law be allowed to such districts respectively;* which person or persons, at the time of holding such meetings, shall belong to and reside in the respective districts in which they shall be so balloted for as aforesaid. And each elector present at such meeting, qualified as aforesaid, may thereupon bring in his ballot or suffrage for such person or persons as he shall choose, to be senators for such district, not exceeding the number by law allowed to the same, with the name or names of such person or persons fairly *written** on one piece of paper. And the votes so given in shall be received, counted, canvassed, and declared, in the same manner now provided by the constitution for the choice of senators. The person or persons (not exceeding the number by law allowed to the districts in which such votes shall be given in) having the highest number of votes, shall be declared to be duly elected for such districts. But in the event of an equality of votes between two or more of the persons so voted for, the house of representatives shall, in the manner provided for by the constitution, designate which of such person or persons shall be declared to be duly elected.

RATIFIED NOVEMBER, 1832.

ART. IV. There shall annually be chosen and appointed a lieutenant-governor, a treasurer and secretary, in the same manner as is provided in the second section of the fourth article of the constitution of this State for the choice and appointment of a governor.

RATIFIED NOVEMBER, 1836.

ART. V. A comptroller of public accounts shall be annually chosen by the electors, in their meeting in April, and in the same manner as the treasurer and secretary are chosen, and the votes for comptroller shall be returned to and counted, canvassed, and declared by the treasurer and secretary.

RATIFIED NOVEMBER, 1836.

ART. VI. The electors in the respective towns, on the first Monday of April in each year, may vote for governor, lieutenant-governor, treasurer, secretary, senators and representatives in the general assembly, successively, or for any number of said officers at the same time. And the general assembly shall have power to enact laws regulating and prescribing the order and manner of voting for said officers, and also providing for the election of representatives, at some time subsequent to the first Monday of April, in all cases when it shall so happen that the electors in any town shall fail on that day to elect the representative or representatives to which such town shall be by law entitled: *Provided,* That in all elections of officers of the State, or members of the general assembly, the votes of the electors shall be by ballot, either written or printed.

RATIFIED OCTOBER, 1838.

ART. VII. A sheriff shall be appointed in each county by the electors therein, in such manner as shall be prescribed by law, who shall hold his office for three years, removable by the general assembly, and shall become bound with sufficient sureties, to the treasurer of the State, for the faithful discharge of the duties of his office.

RATIFIED OCTOBER, 1845.

ART. VIII. Every white male citizen of the United States who shall have attained the age of twenty-one years, who shall have resided in this State for a term of one year next preceding, and in the town in which he may offer himself to be admitted to the privileges of an elector at least six months next preceding the time he may so offer himself, [altered by amendment of 1855,] and shall sustain a good moral character, shall, on his taking such oath as may be prescribed by law, be an elector.

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*Altered by amendment of 1836.

RATIFIED OCTOBER, 1850.

ART. IX. The judges of probate shall be appointed by the electors residing in the several probate districts, and qualified to vote for representatives therein, in such manner as shall be prescribed by law.

RATIFIED OCTOBER, 1850.

ART. X. The justices of the peace for the several towns in this State shall be appointed by the electors in such towns; and the time and the manner of their election, the number for each town, and the period for which they shall hold their offices, shall be prescribed by law.

RATIFIED OCTOBER, 1855.

ART. XI. Every person shall be able to read any article of the constitution, or any section of the statutes of this State, before being admitted as an elector.

RATIFIED OCTOBER, 1856.

ART. XII. The judges of the supreme court of errors and of the superior court, appointed in the year 1855, and thereafter, shall hold their offices for the term of eight years, but may be removed by impeachment, and the governor shall also remove them on the address of two-thirds of each house of the general assembly. No judge of the supreme court of errors, or of the superior court, shall be capable of holding office, after he shall have arrived at the age of seventy years.

RATIFIED AUGUST, 1864.

ART. XIII. Every elector of this State who shall be in the military service of the United States, either as a drafted person or volunteer, during the present rebellion, shall, when absent from this State, because of such service, have the same right to vote in any election of State officers, Representatives in Congress, and electors of President and Vice-President of the United States, as he would have if present at the time appointed for such election, in the town in which he resided at the time of his enlistment into such service. This provision shall in no case extend to persons in the regular Army of the United States, and shall cease and become inoperative and void upon the termination of the present war. The general assembly shall prescribe by law in what manner and in what time the votes of electors absent from this State, in the military service of the United States, shall be received, counted, returned, and canvassed.

ADOPTED OCTOBER, 1873.

ART. XIV. All annual and special sessions of the general assembly shall, on and after the first Wednesday of May, A. D. 1875, be held at Hartford; but the person administering the office of governor may, in case of special emergency, convene said assembly at any other place in this State.

ADOPTED OCTOBER, 1874.

ART. XV. The house of representatives shall consist of electors residing in towns from which they are elected. Every town which now contains, or hereafter shall contain, a population of five thousand, shall be entitled to send two representatives, and every other one shall be entitled to its present representation in the general assembly. The population of each town shall be determined by the enumeration made under the authority of the census of the United States, next before the election of representatives is held.

ADOPTED OCTOBER, 1875.

ART. XVI. SECTION 1. A general election for governor, lieutenant-governor, secretary of state, treasurer, comptroller, and members of the general assembly, shall be held

on the Tuesday after the first Monday of November, 1876, and annually thereafter for such officers as are herein and may be hereafter prescribed.

SEC. 2. The State officers above named and the senators from those districts having even numbers elected on the Tuesday after the first Monday of November, 1876, and those elected biennially thereafter on the Tuesday after the first Monday of November, shall respectively hold their offices for two years from and after the Wednesday following the first Monday of the next succeeding January. The senators from those districts having odd numbers elected on the Tuesday after the first Monday of November, 1876, shall hold their offices for one year from and after the Wednesday following the first Monday of January, 1877; the electors residing in the senatorial districts having odd numbers shall on the Tuesday after the first Monday of November, 1877, and biennially thereafter, elect senators, who shall hold their offices for two years from and after the Wednesday following the first Monday of the next succeeding January. The representatives elected from the several towns on the Tuesday after the first Monday of November, 1876, and those elected annually thereafter, shall hold their offices for one year, from and after Wednesday following the first Monday of the next succeeding January.

SEC. 3. There shall be a stated session of the general assembly in Hartford on the Wednesday after the first Monday of January, 1877, and annually thereafter on the Wednesday after the first Monday of January.

SEC. 4. The persons who shall be severally elected to the State offices and general assembly on the first Monday of April, 1876, shall hold such offices only until the Wednesday after the first Monday of January, 1877.

SEC. 5. The general assembly elected in April, 1876, shall have power to pass such laws as may be necessary to carry into effect the provisions of this amendment.

ADOPTED OCTOBER, 1875.

ART. XVII. The general assembly shall have power, by a vote of two-thirds of the members of both branches, to restore the privileges of an elector to those who may have forfeited the same by a conviction of crime.

DELAWARE.

CHARTER OF DELAWARE—1701.*

WILLIAM PENN, Proprietary and Governor of the Province of *Pennsylvania* and Territories thereunto belonging, To all to whom these Presents shall come, sendeth Greeting. WHEREAS King *CHARLES the Second*, by his Letter Patents, under the Great Seal of *England*, bearing Date the *Fourth* Day of *March*, in the Year *One Thousand Six Hundred and Eighty*, was graciously pleased to give and grant unto me, and my Heirs and Assigns for ever, this Province of *Pennsylvania*, with divers great Powers and Jurisdictions for the well Government thereof.

AND WHEREAS the King's dearest Brother, *JAMES Duke of YORK and ALBANY*, &c. by his Deeds of Feoffment, under his Hand and Seal duly perfected, bearing Date the *Twenty-Fourth* Day of *August*, *One Thousand Six Hundred Eighty and Two*, did grant unto me, my Heirs and Assigns, all that Tract of Land, now called the Territories of *Pennsylvania*, together with Powers and Jurisdictions for the good Government thereof.

AND WHEREAS, for the Encouragement of all the Freemen and Planters, that might be concerned in the said Province and Territories, and for the good Government thereof, I the said WILLIAM PENN, in the Year *One Thousand Six Hundred Eighty and Three*, for me, my Heirs and Assigns, did grant and confirm unto all the Freemen, Planters and Adventurers therein, divers Liberties, Franchises and Properties, as by the said Grant, entituled, *The* FRAME *of the Government of the Province of* Pennsylvania, *and Territories thereunto belonging, in* America, may appear; which Charter or Frame being found, in some Parts of it, not so suitable to the present Circumstances of the Inhabitants, was in the *Third* Month, in the Year *One Thousand Seven Hundred*, delivered up to me, by *Six* Parts of *Seven* of the Freemen of this Province and Territories, in General Assembly met, Provision being made in the said Charter, for that End and Purpose.

AND WHEREAS I was then pleased to promise, That I would restore the said Charter to them again, with necessary Alterations, or in lieu thereof, give them another, better adapted to answer the present Circumstances and Conditions of the said Inhabitants; which they have now, by their Representatives in General Assembly met at *Philadelphia*, requested me to grant.

KNOW YE THEREFORE, That for the further Well-being and good Government of the said Province, and Territories; and in Pursuance of the Rights and Powers before-mentioned, I the said *William Penn* do declare, grant and confirm, unto all the Freemen, Planters and Adventurers, and other Inhabitants in this Province and Territories, these following Liberties, Franchises and Privileges, so far as in me lieth, to be held, enjoyed and kept, by the Freemen, Planters and Adventurers, and other Inhabitants of and in the said Province and Territories thereunto annexed, for ever.

FIRST.

BECAUSE no People can be truly happy, though under the greatest Enjoyment of Civil Liberties, if abridged of the Freedom of their Consciences, as to their Religious

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* The counties of "New-Castle, Kent and Sussex, upon Delaware," were granted by James Duke of York, to William Penn in 1682, and were known as "the Territories."

Profession and Worship: And Almighty God being the only Lord of Conscience, Father of Lights and Spirits; and the Author as well as Object of all divine Knowledge, Faith and Worship, who only doth enlighten the Minds, and persuade and convince the Understandings of People, I do hereby grant and declare, That no Person or Persons, inhabiting in this Province or Territories, who shall confess and acknowledge *One* almighty God, the Creator, Upholder and Ruler of the World; and professes him or themselves obliged to live quietly under the Civil Government, shall be in any Case molested or prejudiced, in his or their Person or Estate, because of his or their consciencious Persuasion or Practice, nor be compelled to frequent or maintain any religious Worship, Place or Ministry, contrary to his or their Mind, or to do or suffer any other Act or Thing, contrary to their religious Persuasion.

AND that all Persons who also profess to believe in *Jesus Christ*, the Saviour of the World, shall be capable (notwithstanding their other Persuasions and Practices in Point of Conscience and Religion) to serve this Government in any Capacity, both legislatively and executively, he or they solemnly promising, when lawfully required, Allegiance to the King as Sovereign, and Fidelity to the Proprietary and Governor, and taking the Attests as now established by the Law made at *Newcastle*, in the Year *One Thousand and Seven Hundred*, entituled, *An Act directing the Attests of several Officers and Ministers*, as now amended and confirmed this present Assembly.

II.

FOR the well governing of this Province and Territories, there shall be an Assembly yearly chosen, by the Freemen thereof, to consist of *Four* Persons out of each County, of most Note for Virtue, Wisdom and Ability, (or of a greater Number at any Time, as the Governor and Assembly shall agree) upon the *First* Day of *October* for ever; and shall sit on the *Fourteenth* Day of the same Month, at *Philadelphia*, unless the Governor and Council for the Time being, shall see Cause to appoint another Place within the said Province or Territories: Which Assembly shall have Power to chuse a Speaker and other their Officers; and shall be Judges of the Qualifications and Elections of their own Members; sit upon their own Adjournments; appoint Committees; prepare Bills in order to pass into Laws; impeach Criminals, and redress Grievances; and shall have all other Powers and Privileges of an Assembly, according to the Rights of the free-born Subjects of *England*, and as is usual in any of the King's Plantations in *America*.

AND if any County or Counties, shall refuse or neglect to chuse their respective Representatives as aforesaid, or if chosen, do not meet to serve in Assembly, those who are so chosen and met, shall have the full Power of an Assembly, in as ample Manner as if all the Representatives had been chosen and met, provided they are not less than *Two Thirds* of the whole Number that ought to meet.

AND that the Qualifications of Electors and Elected, and all other Matters and Things relating to elections of Representatives to serve in Assemblies, though not herein particularly expressed, shall be and remain as by a Law of this Government, made at *Newcastle*, in the Year *One Thousand Seven Hundred*, entituled, *An Act to ascertain the Number of Members of Assembly, and to regulate the Elections.*

III.

THAT the Freemen in each respective County, at the Time and Place of Meeting for electing their Representatives to serve in Assembly, may as often as there shall be Occasion, chuse a double Number of Persons to present to the Governor for Sheriffs and Coroners, to serve for *Three* Years, if so long they behave themselves well; out of which respective Elections and Presentments, the Governor shall nominate and commissionate one for each of the said Offices, the *Third* Day after such Presentment, or else the *First* named in such Presentment, for each Office as aforesaid, shall stand and serve in that Office for the Time before respectively limited; and in case of Death or Default, such Vacancies shall be supplied by the Governor, to serve to the End of the said Term.

PROVIDED ALWAYS, That if the said Freemen shall at any Time neglect or decline to chuse a Person or Persons for either or both the aforesaid Offices, then, and in such Case, the Persons that are or shall be in the respective Offices of Sheriffs or Coroners, at the Time of Election, shall remain therein, until they shall be removed by another Election as aforesaid.

AND that the Justices of the respective Counties shall or may nominate and present to the Governor *Three* Persons, to serve for Clerk of the Peace for the said County, when there is a Vacancy, one of which the Governor shall commissionate within *Ten* Days after such Presentment, or else the *First* nominated shall serve in the said Office during good Behaviour.

IV.

THAT the Laws of this Government shall be in this Stile, viz. *By the Governor, with the Consent and Approbation of the Freemen in General Assembly met;* and shall be, after Confirmation by the Governor, forthwith recorded in the Rolls Office, and kept at *Philadelphia*, unless the Governor and Assembly shall agree to appoint another Place.

V.

THAT all Criminals shall have the same Privileges of Witnesses and Council as their Prosecutors.

VI.

THAT no Person or Persons shall or may, at any Time hereafter, be obliged to answer any Complaint, Matter or Thing whatsoever, relating to Property, before the Governor and Council, or in any other Place, but in ordinary Course of Justice, unless Appeals thereunto shall be hereafter by Law appointed.

VII.

THAT no Person within this Government, shall be licensed by the Governor to keep an Ordinary, Tavern, or House of publick Entertainment, but such who are first recommended to him, under the Hands of the Justices of the respective Counties, signed in open Court; which Justices are and shall be hereby impowered, to suppress and forbid any Person, keeping such Publick-House as aforesaid, upon their Misbehaviour, on such Penalties as the Law doth or shall direct; and to recommend others, from time to time, as they shall see Occasion.

VIII.

IF any Person, through Temptation or Melancholy, shall destroy himself, his Estate, real and personal, shall notwithstanding descend to his Wife and Children, or Relations, as if he had died a natural Death; and if any Person shall be destroyed or killed by Casualty or Accident, there shall be no Forfeiture to the Governor by Reason thereof.

AND no Act, Law or Ordinance whatsoever, shall at any Time hereafter, be made or done, to alter, change or diminish the Form or Effect of this Charter, or of any Part or Clause therein, contrary to the true Intent and Meaning thereof, without the Consent of the Governor for the Time being, and *Six* Parts of *Seven* of the Assembly met.

BUT, because the Happiness of Mankind depends so much upon the Enjoying of Liberty of their Consciences, as aforesaid, I do hereby solemnly declare, promise and grant, for me, my Heirs and Assigns, That the *First* Article of this Charter relating to Liberty of Conscience, and every Part and Clause therein, according to the true Intent and Meaning thereof, shall be kept and remain, without any Alteration, inviolably for ever.

AND LASTLY, I the said *William Penn*, Proprietary and Governor of the Province of *Pennsylvania*, and Territories thereunto belonging, for myself, my Heirs and

Assigns, have solemnly declared, granted and confirmed, and do hereby solemnly declare, grant and confirm, That neither I, my Heirs or Assigns, shall procure or do any Thing or Things whereby the Liberties in this Charter contained and expressed, nor any Part thereof, shall be infringed or broken: And if any thing shall be procured or done, by any Person or Persons, contrary to these Presents, it shall be held of no Force or Effect.

IN WITNESS whereof, I the said *William Penn*, at *Philadelphia* in *Pennsylvania*, have unto this present Charter of Liberties, set my Hand and broad Seal, this *Twenty-Eighth* Day of *October*, in the Year of Our Lord *One Thousand Seven Hundred and One*, being the *Thirteenth* Year of the Reign of King *WILLIAM the Third*, over *England*, *Scotland*, *France* and *Ireland*, &c. and the *Twenty-First* Year of my Government.

AND NOTWITHSTANDING the Closure and Test of this present Charter as aforesaid, I think fit to add this following Proviso thereunto, as Part of the same, *That is to say*, That notwithstanding any Clause or Clauses in the above-mentioned Charter, obliging the Province and Territories to join together in Legislation, I am content, and do hereby declare, that if the Representatives of the Province and Territories shall not hereafter agree to join together in Legislation, and that the same shall be signified unto me, or my Deputy, in open Assembly, or otherwise, from under the Hands and Seals of the Representatives, for the Time being, of the Province and Territories, or the major Part of either of them, at any Time within *Three* Years from the Date hereof, that in such Case, the Inhabitants of each of the *Three* Counties of this Province, shall not have less than *Eight* Persons to represent them in Assembly, for the Province; and the Inhabitants of the Town of *Philadelphia* (when the said Town is incorporated) *Two* Persons to represent them in Assembly; and the Inhabitants of each County in the Territories, shall have as many Persons to represent them in a distinct Assembly for the Territories, as shall be by them requested as aforesaid.

NOTWITHSTANDING which Separation of the Province and Territories, in Respect of Legislation, I do hereby promise, grant and declare, That the Inhabitants of both Province and Territories, shall separately enjoy all other Liberties, Privileges and Benefits, granted jointly to them in this Charter, any Law, Usage or Custom of this Government, heretofore made and practised, or any Law made and passed by this General Assembly, to the Contrary hereof, notwithstanding.

WILLIAM PENN.

CONSTITUTION OF DELAWARE—1776.*

The constitution, or system of government, agreed to and resolved upon by the representatives in full convention of the Delaware State, formerly styled "The government of the counties of New Castle, Kent, and Sussex, upon Delaware," the said representatives being chosen by the freemen of the said State for that express purpose.

ARTICLE 1. The government of the counties of New Castle, Kent, and Sussex, upon Delaware, shall hereafter in all public and other writings be called The Delaware State.

ART. 2. The legislature shall be formed of two distinct branches; they shall meet once or oftener in every year, and shall be called, "The general assembly of Delaware."

ART. 3. One of the branches of the legislature shall be called "The house of assembly," and shall consist of seven representatives to be chosen for each county annually of such persons as are freeholders of the same.

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* This constitution was framed by a convention which assembled at New Castle, August 27, 1776, in accordance with the recommendation of the Continental Congress that the people of the Colonies should form independent State governments. It was proclaimed September 21, 1776.

ART. 4. The other branch shall be called "The council," and consist of nine members; three to be chosen for each county at the time of the first election of the assembly, who shall be freeholders of the county for which they are chosen, and be upwards of twenty-five years of age. At the end of one year after the general election, the councillor who had the smallest number of votes in each county shall be displaced, and the vacancies thereby occasioned supplied by the freemen of each county choosing the same or another person at a new election in manner aforesaid. At the end of two years after the first general election, the councillor who stood second in number of votes in each county shall be displaced, and the vacancies thereby occasioned supplied by a new election in manner aforesaid. And at the end of three years from the first general election, the councillor who had the greatest number of votes in each county shall be displaced, and the vacancies thereby occasioned supplied by a new election in manner aforesaid. And this rotation of a councillor being displaced at the end of three years in each county, and his office supplied by a new choice, shall be continued afterwards in due order annually forever, whereby, after the first general election, a councillor will remain in trust for three years from the time of his being elected, and a councillor will be displaced, and the same or another chosen in each county at every election.

ART. 5. The right of suffrage in the election of members for both houses shall remain as exercised by law at present; and each house shall choose its own speaker, appoint its own officers, judge of the qualifications and elections of its own members, settle its own rules of proceedings, and direct writs of election for supplying intermediate vacancies. They may also severally expel any of their own members for misbehavior, but not a second time in the same sessions for the same offence, if reelected; and they shall have all other powers necessary for the legislature of a free and independent State.

ART. 6. All money-bills for the support of government shall originate in the house of assembly, and may be altered, amended, or rejected by the legislative council. All other bills and ordinances may take rise in the house of assembly or legislative council, and may be altered, amended, or rejected by either.

ART. 7. A president or chief magistrate shall be chosen by joint ballot of both houses, to be taken in the house of assembly, and the box examined by the speakers of each house in the presence of the other members, and in case the numbers for the two highest in votes should be equal, then the speaker of the council shall have an additional casting voice, and the appointment of the person who has the majority of votes shall be entered at large on the minutes and journals of each house, and a copy thereof on parchment, certified and signed by the speakers respectively, and sealed with the great seal of the State, which they are hereby authorized to affix, shall be delivered to the person so chosen president, who shall continue in that office three years, and until the sitting of the next general assembly and no longer, nor be eligible until the expiration of three years after he shall have been out of that office. An adequate but moderate salary shall be settled on him during his continuance in office. He may draw for such sums of money as shall be appropriated by the general assembly, and be accountable to them for the same; he may, by and with the advice of the privy council, lay embargoes or prohibit the exportation of any commodity for any time not exceeding thirty days in the recess of the general assembly; he shall have the power of granting pardons or reprieves, except where the prosecution shall be carried on by the house of assembly, or the law shall otherwise direct, in which cases no pardon or reprieve shall be granted, but by a resolve of the house of assembly, and may exercise all the other executive powers of government, limited and restrained as by this constitution is mentioned, and according to the laws of the State. And on his death, inability, or absence from the State, the speaker of the legislative council for the time being shall be vice-president, and in case of his death, inability, or absence from the State, the speaker of the house of assembly shall have the powers of a president, until a new nomination is made by the general assembly.

ART. 8. A privy council, consisting of four members, shall be chosen by ballot, two by the legislative council and two by the house of assembly: *Provided*, That no regular officer of the army or navy in the service and pay of the continent, or of this, or

of any other State, shall be eligible; and a member of the legislative council or of the house of assembly being chosen of the privy council, and accepting thereof, shall thereby lose his seat. Three members shall be a quorum, and their advice and proceedings shall be entered of record, and signed by the members present, (to any part of which any member may enter his dissent,) to be laid before the general assembly when called for by them. Two members shall be removed by ballot, one by the legislative council and one by the house of assembly, at the end of two years, and those who remain the next year after, who shall severally be ineligible for the three next years. The vacancies, as well as those occasioned by death or incapacity, shall be supplied by new elections in the same manner; and this rotation of a privy councillor shall be continued afterwards in due order annually forever. The president may by summons convene the privy council at any time when the public exigencies may require, and at such place as he shall think most convenient, when and where they are to attend accordingly.

ART. 9. The president, with the advice and consent of the privy council, may embody the militia, and act as captain-general and commander-in-chief of them, and the other military force of this State, under the laws of the same.

ART. 10. Either house of the general assembly may adjourn themselves respectively. The president shall not prorogue, adjourn, or dissolve the general assembly, but he may, with the advice of the privy council, or on the application of a majority of either house, call them before the time they shall stand adjourned; and the two houses shall always sit at the same time and place, for which purpose immediately after every adjournment the speaker of the house of assembly shall give notice to the speaker of the other house of the time to which the house of assembly stands adjourned.

ART. 11. The Delegates for Delaware to the Congress of the United States of America shall be chosen annually, or superseded in the mean time, by joint ballot of both houses in the general assembly.

ART. 12. The president and general assembly shall by joint ballot appoint three justices of the supreme court for the State, one of whom shall be chief justice, and a judge of admiralty, and also four justices of the courts of common pleas and orphans' courts for each county, one of whom in each court shall be styled "*chief justice*," (and in case of division on the ballot the president shall have an additional casting voice,) to be commissioned by the president under the great seal, who shall continue in office during good behavior; and during the time the justices of the said supreme court and courts of common pleas remain in office, they shall hold none other except in the militia. Any one of the justices of either of said courts shall have power, in case of the noncoming of his brethren, to open and adjourn the court. An adequate fixed but moderate salary shall be settled on them during their continuance in office. The president and privy council shall appoint the secretary, the attorney-general, registers for the probate of wills and granting letters of administration, registers in chancery, clerks of the courts of common pleas and orphans' courts, and clerks of the peace, who shall be commissioned as aforesaid, and remain in office during five years, if they behave themselves well; during which time the said registers in chancery and clerks shall not be justices of either of the said courts of which they are officers, but they shall have authority to sign all writs by them issued, and take recognizances of bail. The justices of the peace shall be nominated by the house of assembly; that is to say, they shall name twenty-four persons for each county, of whom the president, with the approbation of the privy council, shall appoint twelve, who shall be commissioned as aforesaid, and continue in office during seven years, if they behave themselves well; and in case of vacancies, or if the legislature shall think proper to increase the number, they shall be nominated and appointed in like manner. The members of the legislative and privy councils shall be justices of the peace for the whole State, during their continuance in trust; and the justices of the courts of common pleas shall be conservators of the peace in their respective counties.

ART. 13. The justices of the courts of common pleas and orphans' courts shall have the power of holding inferior courts of chancery, as heretofore, unless the legislature shall otherwise direct.



ART. 14. The clerks of the supreme court shall be appointed by the chief justice thereof, and the recorders of deeds, by the justices of the courts of common pleas for each county severally, and commissioned by the president, under the great seal, and continue in office five years, if they behave themselves well.

ART. 15. The sheriffs and coroners of the respective counties shall be chosen annually, as heretofore; and any person, having served three years as sheriff, shall be ineligible for three years after; and the president and privy council shall have the appointment of such of the two candidates, returned for said offices of sheriff and coroner, as they shall think best qualified, in the same manner that the governor heretofore enjoyed this power.

ART. 16. The general assembly, by joint ballot, shall appoint the generals and field-officers, and all other officers in the army or navy of this State; and the president may appoint, during pleasure, until otherwise directed by the legislature, all necessary civil officers not hereinbefore mentioned.

ART. 17. There shall be an appeal from the supreme court of Delaware, in matters of law and equity, to a court of seven persons, to consist of the president for the time being, who shall preside therein, and six others, to be appointed, three by the legislative council, and three by the house of assembly, who shall continue in office during good behavior, and be commissioned by the president, under the great seal; which court shall be styled the "*court of appeals*," and have all the authority and powers heretofore given by law in the last resort to the King in council, under the old government. The secretary shall be the clerk of this court; and vacancies therein occasioned by death or incapacity, shall be supplied by new elections, in manner aforesaid.

ART. 18. The justices of the supreme court and courts of common pleas, the members of the privy council, the secretary, the trustees of the loan office, and clerks of the court of common pleas, during their continuance in office, and all persons concerned in any army or navy contracts, shall be ineligible to either house of assembly; and any member of either house accepting of any other of the offices hereinbefore mentioned (excepting the office of a justice of the peace) shall have his seat thereby vacated, and a new election shall be ordered.

ART. 19. The legislative council and assembly shall have the power of making the great seal of this State, which shall be kept by the president, or, in his absence, by the vice-president, to be used by them as occasion may require. It shall be called "*The Great Seal of the Delaware State*," and shall be affixed to all laws and commissions.

ART. 20. Commissions shall run in the name of "The Delaware State," and bear test by the president. Writs shall run in the same manner, and bear test in the name of the chief-justice, or justice first named in the commissions for the several courts, and be sealed with the public seals of such courts. Indictments shall conclude, "*Against the peace and dignity of the State.*"

ART. 21. In case of vacancy of the offices above directed to be filled by the president and general assembly, the president and privy council may appoint others in their stead until there shall be a new election.

ART. 22. Every person who shall be chosen a member of either house, or appointed to any office or place of trust, before taking his seat, or entering upon the execution of his office, shall take the following oath, or affirmation, if conscientiously scrupulous of taking an oath, to wit:

"I, A B, will bear true allegiance to the Delaware State, submit to its constitution and laws, and do no act wittingly whereby the freedom thereof may be prejudiced."

And also make and subscribe the following declaration, to wit:

"I, A B, do profess faith in God the Father, and in Jesus Christ His only Son, and in the Holy Ghost, one God, blessed for evermore; and I do acknowledge the holy scriptures of the Old and New Testament to be given by divine inspiration."

And all officers shall also take an oath of office.

ART. 23. The president, when he is out of office, and within eighteen months after, and all others offending against the State, either by maladministration, corruption, or

other means, by which the safety of the Commonwealth may be endangered, within eighteen months after the offence committed, shall be impeachable by the house of assembly before the legislative council; such impeachment to be prosecuted by the attorney-general, or such other person or persons as the house of assembly may appoint, according to the laws of the land. If found guilty, he or they shall be either forever disabled to hold any office under government, or removed from office *pro tempore*, or subjected to such pains and penalties as the laws shall direct. And all officers shall be removed on conviction of misbehavior at common law, or on impeachment, or upon the address of the general assembly.

ART. 24. All acts of assembly in force in this State on the 15th day of May last (and not hereby altered, or contrary to the resolutions of Congress or of the late house of assembly of this State) shall so continue, until altered or repealed by the legislature of this State, unless where they are temporary, in which case they shall expire at the times respectively limited for their duration.

ART. 25. The common law of England, as well as so much of the statute law as has been heretofore adopted in practice in this State, shall remain in force, unless they shall be altered by a future law of the legislature; such parts only excepted as are repugnant to the rights and privileges contained in this constitution, and the declaration of rights, &c., agreed to by this convention.

ART. 26. No person hereafter imported into this State from Africa ought to be held in slavery under any pretence whatever; and no negro, Indian, or mulatto slave ought to be brought into this State, for sale, from any part of the world.

ART. 27. The first election for the general assembly of this State shall be held on the 21st day of October next, at the court-houses in the several counties, in the manner heretofore used in the election of the assembly, except as to the choice of inspectors and assessors, where assessors have not been chosen on the 16th day of September, instant, which shall be made on the morning of the day of election, by the electors, inhabitants of the respective hundreds in each county. At which time the sheriffs and coroners, for the said counties respectively, are to be elected; and the present sheriffs of the counties of Newcastle and Kent may be rechosen to that office until the 1st day of October, A. D. 1779; and the present sheriff for the county of Sussex may be rechosen to that office until the 1st day of October, A. D. 1778, provided the freemen think proper to reëlect them at every general election; and the present sheriffs and coroners, respectively, shall continue to exercise their offices as heretofore, until the sheriffs and coroners, to be elected on the said 21st day of October, shall be commissioned and sworn into office. The members of the legislative council and assembly shall meet, for transacting the business of the State, on the 28th day of October next, and continue in office until the 1st day of October, which will be in the year 1777; on which day, and on the 1st day of October in each year forever after, the legislative council, assembly, sheriffs, and coroners shall be chosen by ballot, in manner directed by the several laws of this State, for regulating elections of members of assembly and sheriffs and coroners; and the general assembly shall meet on the 20th day of the same month for the transacting the business of the State; and if any of the said 1st and 20th days of October should be Sunday, then, and in such case, the elections shall be held, and the general assembly meet, the next day following.

ART. 28. To prevent any violence or force being used at the said elections, no persons shall come armed to any of them, and no muster of the militia shall be made on that day; nor shall any battalion or company give in their votes immediately succeeding each other, if any other voter, who offers to vote, objects thereto; nor shall any battalion or company, in the pay of the continent, or of this or any other State, be suffered to remain at the time and place of holding the said elections, nor within one mile of the said places respectively, for twenty-four hours before the opening said elections, nor within twenty-four hours after the same are closed, so as in any manner to impede the freely and conveniently carrying on the said election: *Provided always*, That every elector may, in a peaceable and orderly manner, give in his vote on the said day of election.

ART. 29. There shall be no establishment of any one religious sect in this State in preference to another; and no clergyman or preacher of the gospel, of any denomi-

nation, shall be capable of holding any civil office in this State, or of being a member of either of the branches of the legislature, while they continue in the exercise of the pastoral function.

ART. 30. No article of the declaration of rights and fundamental rules of this State, agreed to by this convention, nor the first, second, fifth, (except that part thereof that relates to the right of suffrage,) twenty-sixth, and twenty-ninth articles of this constitution, ought ever to be violated on any pretence whatever. No other part of this constitution shall be altered, changed, or diminished without the consent of five parts in seven of the assembly, and seven members of the legislative council.

Attest: GEORGE READ, *President.*

JAMES BOOTH, *Secretary.*

CONSTITUTION OF DELAWARE—1792.*

We, the people, hereby ordain and establish this constitution of government for the State of Delaware.

Through divine goodness all men have, by nature, the rights of worshipping and serving their Creator according to the dictates of their consciences, of enjoying and defending life and liberty, of acquiring and protecting reputation and property, and, in general, of attaining objects suitable to their condition, without injury by one to another; and as these rights are essential to their welfare, for the due exercise thereof, power is inherent in them; and, therefore, all just authority in the institutions of political society is derived from the people, and established with their consent, to advance their happiness; and they may, for this end, as circumstances require, from time to time, alter their constitution of government.

ARTICLE I.

SECTION 1. Although it is the duty of all men frequently to assemble together for the public worship of the Author of the universe, and piety and morality, on which the prosperity of communities depends, are thereby promoted; yet no man shall or ought to be compelled to attend any religious worship, to contribute to the erection or support of any place of worship, or to the maintenance of any ministry, against his own free will and consent; and no power shall or ought to be vested in or assumed by any magistrate that shall in any case interfere with, or in any manner control, the rights of conscience, in the free exercise of religious worship, nor a preference be given by law to any religious societies, denominations, or modes of worship.

SEC. 2. No religious test shall be required as a qualification to any office, or public trust, under this State.

SEC. 3. All elections shall be free and equal.

SEC. 4. Trial by jury shall be as heretofore.

SEC. 5. The press shall be free to every citizen who undertakes to examine the official conduct of men acting in a public capacity; and any citizen may print on any subject, being responsible for the abuse of that liberty. In prosecutions for publications investigating the proceedings of officers, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury may determine the facts and the law, as in other cases.

SEC. 6. The people shall be secure in their persons, houses, papers, and possessions from the unreasonable searches and seizures; and no warrant to search any place, or to seize any person or things, shall issue without describing them as particularly as may be, nor then, unless there be probable cause supported by oath or affirmation.

* This constitution was framed by a convention which met at New Castle in June, 1792, and it was put in operation without having been submitted to the people.

SEC. 7. In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to be plainly and fully informed of the nature and cause of the accusation against him, to meet the witnesses in their examination face to face, to have compulsory process in due time, on application by himself, his friends, or counsel, for obtaining witnesses in his favor, and a speedy and public trial by an impartial jury; he shall not be compelled to give evidence against himself, nor shall be deprived of life, liberty, or property, unless by the judgment of his peers or the law of the land.

SEC. 8. No person shall for any indictable offence be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger, and no person shall be, for the same offence, twice put in jeopardy of life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives, and without compensation being made.

SEC. 9. All courts shall be open; and every man, for an injury done him in his reputation, person, movable or immovable possessions, shall have remedy by the due course of law, and justice administered according to the very right of the cause and the law of the land, without sale, denial, or unreasonable delay or expense; and every action shall be tried in the county in which it shall be commenced, unless when the judges of the court in which the cause is to be tried shall determine that an impartial trial therefore cannot be had in that county. Suits may be brought against the State, according to such regulations as shall be made law.

SEC. 10. No power of suspending laws shall be exercised, but by authority of the legislature.

SEC. 11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted; and in the construction of jails a proper regard shall be had to the health of prisoners.

SEC. 12. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is positive, or the presumption great; and when persons are confined on accusation for such offences, their friends and counsel may at proper seasons have access to them.

SEC. 13. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SEC. 14. No commission of oyer and terminer or jail-delivery shall be issued.

SEC. 15. No attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate. The estates of those who destroy their own lives shall descend or vest as in case of natural death; and if any person be killed by accident, no forfeiture shall be thereby incurred.

SEC. 16. Although disobedience to laws by a part of the people, upon suggestions of impolicy or injustice in them, tends by immediate effect and the influence of example, not only to endanger the public welfare and safety, but also, in governments of a republican form, contravenes the social principles of such governments founded on common consent for common good, yet the citizens have a right, in an orderly manner, to meet together, and to apply to persons intrusted with the powers of government for redress of grievances or other proper purposes, by petition, remonstrance, or address.

SEC. 17. No standing army shall be kept up without the consent of the legislature; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

SEC. 18. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war, but by a civil magistrate, in a manner to be prescribed by law.

SEC. 19. No hereditary distinction shall be granted, nor any office created or exercised, the appointment to which shall be for a longer term than during good behavior; and no person holding any office under this State shall accept of any office or title of any kind whatever, from any king, prince, or foreign state.

We declare that everything in this article is reserved out of the general powers of government hereinafter mentioned.

ARTICLE II.

SECTION 1. The legislative power of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives.

SEC. 2. The representatives shall be chosen annually by the citizens residing in the several counties, respectively, on the first Tuesday of October.

No person shall be a representative who shall not have attained to the age of twenty-four years, and have a freehold in the county in which he shall be chosen, have been a citizen and inhabitant of the State three years next preceding the first meeting of the legislature after his election, and the last year of that term an inhabitant of the county in which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State.

There shall be seven representatives chosen in each county, until a greater number of representatives shall by the general assembly be judged necessary; and then, two-thirds of each branch of the legislature concurring, they may by law make provision for increasing their number.

SEC. 3. The senators shall be chosen for three years by the citizens residing in the several counties, respectively, having right to vote for representatives, at the same time when they shall vote for representatives, in the same manner, and at the same places.

No person shall be a senator who shall not have attained to the age of twenty-seven years, and have in the county in which he shall be chosen a freehold estate in two hundred acres of land, or an estate in real and personal property, or in either, of the value of one thousand pounds at least, and have been a citizen and inhabitant of the State three years next preceding the first meeting of the legislature after his election, and the last year of that term an inhabitant of the county in which he shall be chosen, unless he shall have been absent on the public business of the United States or of this State.

There shall be three senators chosen in each county. When a greater number of senators shall by the general assembly be judged necessary, two-thirds of each branch concurring, they may, by law, make provision for increasing their number; but the number of senators shall never be greater than one-half, nor less than one-third, of the number of representatives.

Immediately after the senators shall be assembled in consequence of the first election, the senators residing in each county shall be divided by lot into three classes. The seats of the senators of the first class shall be vacated at the expiration of the first year; of the second class at the expiration of the second year; and of the third class at the expiration of the third year, so that one-third may be chosen every year.

SEC. 4. The general assembly shall meet on the first Tuesday of January, in every year, unless sooner convened by the governor.

SEC. 5. Each house shall choose its speaker and other officers; and also each house, whose speaker shall exercise the office of governor, may choose a speaker *pro tempore*.

SEC. 6. Each house shall judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members, in such manner, and under such penalties, as shall be deemed expedient.

SEC. 7. Each house may determine the rules of its proceedings, punish any of its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 8. Each house shall keep a journal of its proceedings, and publish them immediately after every session, except such parts as may require secrecy, and the yeas and nays of the members on any question shall, at the desire of any member, be entered on the journal.

SEC. 9. The doors of each house, and of committees of the whole, shall be open, unless when the business is such as ought to be kept secret.

SEC. 10. Neither house shall, without the consent of the other, adjourn for more

than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 11. The senators and representatives shall receive a compensation for their services to be ascertained by law, and paid out of the treasury of the State; but no law varying the compensation shall take effect till an election of representatives shall have intervened. They shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 12. No senator nor representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State which shall have been created, or the emoluments of which shall have been increased, during such time. No person concerned in any army or navy contract, no member of Congress, nor any person holding any office under this State or the United States, except the attorney-general, officers usually appointed by the courts of justice respectively, attorneys at law, and officers in the militia, holding no disqualifying office, shall, during his continuance in Congress or in office, be a senator or representative.

SEC. 13. When vacancies happen in either house writs of election shall be issued by the speakers respectively, or, in cases of necessity, in such other manner as shall be provided for by law; and the persons thereupon chosen shall hold their seats as long as those in whose stead they are elected might have done if such vacancies had not happened.

SEC. 14. All bills for raising revenue shall originate in the house of representatives; but the senate may propose alterations, as on other bills; and no bill, from the operation of which, when passed into a law, revenue may incidentally arise, shall be accounted a bill for raising revenue; nor shall any matter or clause whatever, not immediately relating to and necessary for raising revenue, be in any manner blended with or annexed to a bill for raising revenue.

SEC. 15. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published annually.

ARTICLE III.

SECTION 1. The supreme executive powers of this State shall be vested in a governor.

SEC. 2. The governor shall be chosen on the first Tuesday of October by the citizens of the State having right to vote for representatives in the counties where they respectively reside, at the places where they shall vote for representatives.

The returns of every election for governor shall be sealed up, and immediately delivered by the returning officers of the several counties to the speaker of the senate, [or in case of his death to the speaker of the house of representatives,] who shall keep the same until a speaker of the senate shall be appointed, to whom they shall be immediately delivered after his appointment, who shall open and publish the same in the presence of the members of both houses of the legislature. Duplicates of the said returns shall also be immediately lodged with the prothonotary of each county. The person having the highest number of votes shall be governor; but if two or more shall be equal in the highest number of votes, the members of the two houses shall, by joint ballot, choose one of them to be governor; and if, upon such ballot, two or more of them shall still be equal and highest in votes, the speaker of the senate shall have an additional casting vote.

Contested elections of a governor shall be determined by a joint committee, consisting of one-third of all the members of each branch of the legislature, to be selected by ballot of the houses respectively; every person of the committee shall take an oath or affirmation that in determining the said election he will faithfully discharge the trust reposed in him; and the committee shall always sit with open doors.

SEC. 3. The governor shall hold his office during three years from the third Tues-

day of January next ensuing his election, and shall not be capable of holding it longer than three in any term of six years.

SEC. 4. He shall be at least thirty years of age, and have been a citizen and inhabitant of the United States twelve years next before the first meeting of the legislature after his election, and the last six of that term an inhabitant of this State, unless he shall have been absent on the public business of the United States or of this State.

SEC. 5. No member of Congress, nor person holding any office under the United States, or this State, shall exercise the office of governor.

SEC. 6. The governor shall, at stated times, receive for his services an adequate salary, to be fixed by law, which shall be neither increased nor diminished during the period for which he shall have been elected.

SEC. 7. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 8. He shall appoint all officers whose offices are established by this constitution, or shall be established by law, and whose appointments are not herein otherwise provided for; but no person shall be appointed to an office within a county who shall not have a right to vote for representatives, and have been an inhabitant therein one year next before his appointment, nor hold the office longer than he continues to reside in the county. No member of Congress, nor any person holding or exercising any office under the United States, shall at the same time hold or exercise the office of judge, treasurer, attorney-general, secretary, clerk of the supreme court, prothonotary, register for the probate of wills and granting letters of administration, recorder, sheriff, or any office under this State, with a salary by law annexed to it, or any other office which the legislature shall declare incompatible with offices or appointments under the United States. No person shall hold more than one of the following offices at the same time, to wit, treasurer, attorney-general, clerk of the supreme court, prothonotary, register, or sheriff. All commissions shall be in the name of the State, shall be sealed with the great seal, and be signed and tested by the governor.

SEC. 9. He shall have power to remit fines and forfeitures, and to grant reprieves and pardons, except in cases of impeachment.

SEC. 10. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 11. He shall from time to time give to the general assembly information of affairs concerning the State, and recommend to their consideration such measures as he shall judge expedient.

SEC. 12. He may, on extraordinary occasions, convene the general assembly; and in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding three months.

SEC. 13. He shall take care that the laws be faithfully executed.

SEC. 14. On the death or resignation of the governor, or his removal from office on impeachment, or for inability, the speaker of the senate at that time shall exercise the office of governor, until a new governor shall be duly qualified, and on the death or resignation of the speaker of the senate, the speaker of the house of representatives at that time shall exercise the office, until it be regularly vested in a new governor. If the trial of a contested election shall continue longer than until the third Tuesday of January next ensuing the election of a governor, the governor of the last year, or the speaker of the senate, or of the house of representatives, who may then be in the exercise of the executive authority, shall continue therein until a determination of such contested election. The governor shall not be removed from his office for inability, but with the concurrence of two-thirds of all the members of each branch of the legislature.

SEC. 15. A secretary shall be appointed and commissioned during the governor's continuance in office, if he shall so long behave himself well. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required by either branch of the legislature, lay the same, and all papers, minutes, and vouchers relative thereto, before them, and shall perform such other duties as shall be enjoined him by law. He shall have a compensation for his services to be fixed by law.

ARTICLE IV.

SECTION 1. All elections of governor, senators, and representatives shall be by ballot. And in such elections every white free man of the age of twenty-one years, having resided in the State two years next before the election, and within that time paid a State or county tax, which shall have been assessed at least six months before the election, shall enjoy the right of an elector; and the sons of persons so qualified shall, between the ages of twenty-one and twenty-two years, be entitled to vote, although they shall not have paid taxes.

SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from them.

ARTICLE V.

SECTION 1. The house of representatives shall have the sole power of impeaching; but two-thirds of all the members must concur in an impeachment. All impeachments shall be tried by the senate; and, when sitting for that purpose, the senators shall be upon oath or affirmation to do justice according to the evidence. No person shall be convicted without the concurrence of two-thirds of all the senators.

SEC. 2. The governor, and all other civil officers under this State, shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office. Judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted shall nevertheless be subject to indictment, trial, judgment, and punishment according to law.

SEC. 3. Treason against this State shall consist only in levying war against it, or in adhering to the enemies of the government, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

ARTICLE VI.

SECTION 1. The judicial power of this State shall be vested in a court of chancery, a supreme court, and courts of oyer and terminer and general jail-delivery, in a court of common pleas, and in an orphans' court, registers' court, and a court of quarter-sessions of the peace for each county, in justices of the peace, and in such other courts as the legislature (two-thirds of all the members of each branch concurring) may, from time to time, establish.

SEC. 2. The chancellor and the judges of the supreme court, and of the court of common pleas, shall hold their offices during good behavior; but, for any reasonable cause which shall not be a sufficient ground for an impeachment, the governor may, in his discretion, remove any of them, on the address of two-thirds of all the members of each branch of the legislature. They shall, at stated times, receive for their services adequate salaries, to be fixed by law, which shall not be diminished during their continuance in office, and shall be payable quarterly to their respective orders upon the treasurer, out of any moneys in the treasury; but they shall hold no other office of profit, nor receive any fees or perquisites, except such fees as shall be fixed by law for business to be done out of court.

SEC. 3. The judges of the supreme court shall be not fewer than three, nor more than four, one of whom shall be chief-justice. There shall be a judge residing in each county. The jurisdiction of this court shall extend over the State. The judges shall, by virtue of their offices, be justices of oyer and terminer and general jail-delivery in the several counties. Any two of the judges may act as if all were present.

SEC. 4. The judges of the court of common pleas shall be not fewer than three, nor more than four, one of whom shall be chief-justice. There shall be a judge residing in each county. The jurisdiction of this court shall extend over the State. Any two of the judges may act as if all were present.

SEC. 5. The chancellor, or any judge of the supreme court, or of the court of common pleas, shall issue the writ of *habeas corpus* in vacation time, and out of term, when duly applied for, which shall be immediately obeyed.

SEC. 6. Any judge of the supreme court, or of the court of common pleas, may, unless the legislature shall otherwise provide by law, out of court, take the acknowledgment of deeds; and the same being thereon certified, under his hand, such deed shall be recorded, and have the same effect, as if acknowledged in open court.

SEC. 7. In civil causes, when pending, the supreme court and court of common pleas shall have the power, before judgment, of directing, upon such terms as they shall deem reasonable, amendments in pleadings and legal proceedings, so that by error in any of them the determination of causes, according to their real merits, shall not be hindered; and also of directing the examination of witnesses that are aged, very infirm, or going out of the State, upon interrogatories *de bene esse*, to be read in evidence in case of the death or departure of the witnesses before the trial, or inability by reason of age, sickness, bodily infirmity, or imprisonment then to attend; and also the power of obtaining evidence from places not within the State.

SEC .8. Suits may originate in the supreme court or court of common pleas.

SEC. 9. One judge of the supreme court, or of the court of common pleas, may, if the other judges come not, open and adjourn the court, and may also make the necessary rules preparatory, respectively, to the trial or argument of causes.

SEC. 10. At any time pending an action for debt or damages, the defendant may bring into court a sum of money for discharging the same, and the costs then accrued, and the plaintiff not accepting thereof, it shall be delivered for his use to the clerk or prothonotary of the court; and if, upon the final decision of the cause, the plaintiff shall not recover a greater sum than that so paid into court for him, he shall not recover any costs accruing after such payment, except where the plaintiff is an executor or administrator.

SEC. 11. By the death of any party, no suit in chancery or at law, where the cause of action survives, shall abate; but, until the legislature shall otherwise provide, suggestion of such death being entered of record, the executor or administrator of a deceased petitioner, or plaintiff, may prosecute the said suit; and if a respondent or defendant dies, the executor or administrator, being duly served with a *scire facias*, thirty days before the return thereof, shall be considered as a party to the suit, in the same manner as if he had voluntarily made himself a party; and in any of those cases the court shall pass a decree, or render judgment for or against executors or administrators as to right appertains. But where an executor or administrator of a deceased respondent or defendant becomes a party, the court, upon motion, shall grant such a continuance of the cause as to the judges shall appear proper.

SEC. 12. Whenever a person, not being an executor or administrator, appeals from a decree of the chancellor, or applies for a writ of error, such appeal or writ shall be no stay of proceeding in the chancery, or the court to which the writ issues, unless the appellant or plaintiff in error shall give sufficient security, to be approved respectively by the chancellor, or by a judge of the court from which the writ issues, that the appellant or plaintiff in error shall prosecute respectively his appeal or writ to effect, and pay the condemnation-money and all costs, or otherwise abide the decree in appeal or the judgment in error, if he fail to make his plea good.

SEC. 13. No writ of error shall be brought upon any judgment heretofore confessed, entered, or rendered, but within five years from this time; nor upon any judgment hereafter to be confessed, entered, or rendered, but within five years after the confessing, entering, or rendering thereof, unless the person entitled to such writ be an infant, *feme-covert*, *non compos mentis*, or a prisoner, and then within five years exclusive of the time of such disability.

SEC. 14. The equity jurisdiction heretofore exercised by the judges of the court of common pleas shall be separated from the common-law jurisdiction, and vested in a chancellor, who shall hold courts of chancery in the several counties of this State. In cases of equity jurisdiction, where the chancellor is interested, the cognizance thereof shall belong to the court of common pleas, with an appeal to the high court of errors and appeals.

SEC. 15. The judges of the court of common pleas, or any two of them, shall compose the orphans' court of each county, and may exercise the equity jurisdiction heretofore exercised by the orphans' courts, except as to the adjusting and settling executors, administrators, and guardians' accounts; in which cases they shall have an appellate jurisdiction from the sentence or decree of the register. This court may issue process throughout the State to compel the attendance of witnesses. Appeals may be made from the orphans' court, in cases where that court has original jurisdiction, to the supreme court, whose decision shall be final.

SEC. 16. An executor, administrator, or guardian shall file every account with the register for the county, who shall, as soon as conveniently may be, carefully examine the particulars, with the proofs thereof, in the presence of such executor, administrator, or guardian, and shall adjust and settle the same, according to the very right of the matter, and the law of the land; which account, so settled, shall remain in his office for inspection; and the executor, administrator, or guardian shall, within three months after such settlement, give due notice, in writing, to all persons entitled to shares of the estate, or to their guardians respectively if residing within the State, that the account is lodged in the said office for inspection; and the judges of the orphans' court shall hear the exceptions of any persons concerned, if any be made, and thereupon allow no demand whatever against the estate of the deceased, unless, upon consideration of all circumstances, they shall be fully convinced that the same is therewith justly chargeable.

SEC. 17. The registers of the several counties shall respectively hold the register's court in each county. Upon the litigation of a cause, the depositions of the witnesses examined shall be taken at large in writing, and make part of the proceedings in the cause. This court may issue process throughout the State to compel the attendance of witnesses. Appeals may be made from a register's court to the supreme court, whose decision shall be final. In cases where a register is interested in questions concerning the probate of wills, the granting letters of administration, or executors, administrators, or guardians' accounts, the cognizance thereof shall belong to the orphans' court, with an appeal to the supreme court, whose decision shall be final.

SEC. 18. The prothonotaries of the court of common pleas may issue process as heretofore, take recognizances of bail, and sign confessions of judgment; and the clerks of the supreme court shall have the like powers. No judgment in the supreme court or court of common pleas held for one county shall bind lands or tenements in another, until a *testatum fieri facias*, being issued, shall be entered of record in the office of the prothonotary of the county wherein the lands or tenements are situated.

SEC. 19. The judges of the court of common pleas shall, by virtue of their offices, compose the courts of general quarter-sessions of the peace and jail-delivery within the several counties. Any two of the said judges shall be a quorum.

SEC. 20. The governor shall appoint a competent number of persons to the office of justice of the peace, not exceeding twelve in each county, until two-thirds of both houses of the legislature shall by law direct an addition to the number, who shall be commissioned for seven years, if so long they shall behave themselves well; but may be removed by the governor within that time on conviction of misbehavior in office, or on the address of both houses of the legislature.

SEC. 21. The style in all process and public acts shall be, "*The State of Delaware.*" Prosecutions shall be carried on in the name of the State, and shall conclude, "*against the peace and dignity of the State.*"

ARTICLE VII.

SECTION 1. There shall be a court styled "*The high court of errors and appeals,*" which shall consist of the chancellor and of the judges of the supreme court and court of common pleas. Any four of the judges of this court may proceed on business, but any smaller number may open and adjourn the court. If any of them has rendered judgment or passed a decree in any cause before removal, he shall not sit judicially upon the hearing of the same in this court, but may assign the reasons upon which

such judgment was rendered, or such decree passed. The chancellor shall preside, except when he cannot sit judicially; and in such cases, or in his absence, the chief-justice of the supreme court; but if he is so disqualified or absent, then the chief-justice of the court of common pleas shall preside; and if he is so disqualified or absent, then the next eldest judge, according to priority in date of commissions, if present, and not disqualified as aforesaid, shall preside. This court shall have power to issue writs of error to the supreme court, and to the court of common pleas, and to receive and determine appeals from interlocutory or final orders or decrees of the chancellor. Errors shall be assigned and causes of appeal exhibited in writing speedily, and citations duly served on adverse parties.

SEC. 2. Upon the reversal of a judgment of the supreme court or of the court of common pleas, or a decree of the chancellor, this court shall respectively render such judgment or pass such decree as the supreme court, or the court of common pleas, or the chancellor ought to have rendered or passed, except where the reversal is in favor of the plaintiff or petitioner in the original suit, and the damages to be assessed, or the matters to be decreed, are uncertain; in any of which cases the cause shall be remanded, in order to a final decision.

SEC. 3. The judges of this court may issue all process proper for bringing records fully before them, and for carrying their determinations into execution.

ARTICLE VIII.

SECTION 1. The members of the senate and house of representatives, the chancellor, the judges of the supreme court and the court of common pleas, and the attorney-general, shall, by virtue of their offices, be conservators of the peace throughout the State; and the treasurer, secretary, clerks of the supreme court, prothonotaries, registers, recorders, sheriffs, and coroners shall, by virtue of their offices, be conservators thereof within the counties respectively in which they reside.

SEC. 2. The representative, and when there shall be more than one the representatives, of the people of this State in Congress, shall be voted for at the same places where representatives in the State legislature are voted for, and in the same manner.

SEC. 3. The State treasurer shall be appointed annually by the house of representatives, with the concurrence of the senate. No person who hath served in the office of State treasurer shall be eligible to a seat in either house of the legislature until he shall have made a final settlement of his accounts as treasurer, and discharged the balance, if any, thereon due.

SEC. 4. Two persons for the office of sheriff, and two for the office of coroner, shall be chosen by the citizens residing in each county, and having right to vote for representatives, at the time and places of election of representatives, one of whom for each office respectively shall be appointed by the governor. They shall hold their offices for three years, if so long they shall behave themselves well, and until successors be duly qualified; but no person shall be twice appointed sheriff, upon election by the citizens, in any term of six years. The governor shall fill vacancies in these offices by new appointments, to continue unto the next general election, and until successors shall be chosen and duly qualified. The legislature, two-thirds of each branch concurring, may, when it shall be judged expedient, vest the appointment of sheriffs and coroners in the governor; but no person shall be twice appointed sheriff in any term of six years.

SEC. 5. The attorney-general, clerks of the supreme court, prothonotaries, registers, clerks of the orphans' courts and of the peace, shall respectively be commissioned for five years, if so long they shall behave themselves well; but may be removed by the governor within that time, on conviction of misbehavior in office, or on the address of both houses of the legislature. Prothonotaries, clerks of the supreme court, of the orphans' courts, registers, recorders, and sheriffs, shall keep their offices in the town or place in each county in which the supreme court and the court of common pleas are usually held.

SEC. 6. Attorneys at law, all inferior officers in the treasury department, election officers, officers relating to taxes, to the poor, and to highways, constables and hundred officers, shall be appointed in such manner as is or may be directed by law.

SEC. 7. All salaries and fees annexed to offices shall be moderate; and no officer shall receive any fees whatever, without giving to the person who pays a receipt for them, if required, therein specifying every particular, and the charge for it.

SEC. 8. No costs shall be paid by a person accused, on a bill being returned ignoramus; nor on acquittal by a jury, unless a majority of the judges present at the trial certify that there was probable cause for the prosecution.

SEC. 9. The rights, privileges, immunities, and estates of religious societies and corporate bodies shall remain as if the constitution of this State had not been altered. No clergyman or preacher of the gospel, of any denomination, shall be capable of holding any civil office in this State, or of being a member of either branch of the legislature, while he continues in the exercise of the pastoral or clerical functions.

SEC. 10. All the laws of this State, existing at the time of making this constitution, and not inconsistent with it, shall remain in force, unless they shall be altered by future laws; and all actions and prosecutions now pending shall proceed as if this constitution had not been made.

SEC. 11. This constitution shall be prefixed to every edition of the laws made by direction of the legislature.

SEC. 12. The legislature shall, as soon as conveniently may be, provide by law for ascertaining what statutes and parts of statutes shall continue to be in force within this State; for reducing them, and all acts of the general assembly, into such order, and publishing them in such manner, that thereby the knowledge of them may be generally diffused; for choosing inspectors and judges of elections, and regulating the same, in such manner as shall most effectually guard the rights of the citizens entitled to vote; for better securing personal liberty, and easily and speedily redressing all wrongful restraints thereof; for more certainly obtaining returns of impartial juries; for dividing lands and tenements in sales by sheriffs, where they will bear a division, into as many parcels as may be, without spoiling the whole, and for advertising and making the sales, in such manner and at such times and places as may render them most beneficial to all persons concerned; and for establishing schools, and promoting arts and sciences.

ARTICLE IX.

Members of the general assembly, and all officers, executive and judicial, shall be bound, by oath or affirmation, to support the constitution of this State, and to perform the duties of their respective offices with fidelity.

ARTICLE X.

The general assembly, whenever two-thirds of each house shall deem it necessary, may, with the approbation of the governor, propose amendments to this constitution, and at least three, and not more than six months, before the next general election of representatives, duly publish them in print, for the consideration of the people; and, if three-fourths of each branch of the legislature shall, after such an election, and before another, ratify the said amendments, they shall be valid to all intents and purposes, as parts of this constitution. No convention shall be called but by the authority of the people; and an unexceptionable mode of making their sense known, will be for them, at a general election of representatives, to vote also, by ballot, *for* or *against* a convention, as they shall severally choose to do; and if, thereupon, it shall appear that a majority of all the citizens in the State, having right to vote for representatives, have voted for a convention, the general assembly shall, accordingly, at their next sessions, call a convention, to consist of at least as many members as there are in both houses of the legislature, to be chosen in the same manner, at the same places, and at the same time that representatives are by the citizens entitled to vote for representatives, on due notice given for one month, and to meet within three months after they shall be elected.

SCHEDULE.

That no inconveniences may arise from the alterations of the constitution of this State, and in order to carry the same into complete operation, it is hereby declared and ordained—

I. That the president, or, in case of his death, inability, or absence from the State, the speaker of the legislative council, at that time, and in case of his death, inability, or absence from the State, the speaker of the house of assembly, at that time, shall respectively, with the privy council, exercise the executive authority of this State, until the third Tuesday in January next. If the death, inability, or absence of the president shall happen after the first Tuesday of next October, and before the first Tuesday in next January, then the executive authority shall devolve upon the person who was speaker of the council at the next preceding session of the general assembly; and in case of his death, inability, or absence, upon the person who was speaker of the house of assembly at the said next preceding session.

II. That all persons holding offices to which, under this constitution, appointments are to be made by the governor, shall continue in the exercise of the duties of their respective offices, until the first Tuesday of October, 1793, unless their commissions shall sooner expire by their own limitations, or the said offices shall become vacant by death or resignation, and no longer, unless reappointed and commissioned by the governor.

III. That justice shall be administered in the several counties of this State, until the period last mentioned, by the same justices, in the same courts, and in the same manner as heretofore.

IV. That the sheriffs elected at October next shall hold their respective commissions two years, and no longer, from that time, or until new sheriffs are elected and appointed; and such persons shall not be again eligible until the expiration of three years after their commissions cease.

V. That the elections of governor, senators, and representatives shall be conducted by the same persons and in the same manner as is prescribed by the election laws of this State concerning the election of members of the council and of the house of assembly; and the returns thereof shall be made respectively to the person exercising the executive authority, to the senate, and to the house of representatives.

VI. The first meeting of the legislature under this constitution shall be at the town of Dover.

Done in convention the twelfth day of June, in the year of our Lord one thousand seven hundred and ninety-two, and of the Independence of the United States of America the sixteenth. In testimony whereof we have hereunto subscribed our names.

THOMAS MONTGOMERY, *President.*

Attest: JAMES BOOTH, *Secretary.*

AMENDMENT TO THE CONSTITUTION OF 1792.

The chancellor shall compose the orphans' court of each county, and exercise the equity jurisdiction heretofore exercised by the orphans' court, except as to the adjusting and settling executors, administrators, and guardians' accounts, in which case he shall have an appellate jurisdiction from the sentence and decree of the register. This court may issue process throughout the State to compel the attendance of witnesses. Appeals may be made from the orphans' court, in cases where that court has original jurisdiction, to the supreme court, whose decision shall be final.

CONSTITUTION OF DELAWARE—1831.*

We, the people, hereby ordain and establish this constitution of government for the State of Delaware.

Through divine goodness all men have, by nature, the rights of worshipping and serving their Creator according to the dictates of their consciences; of enjoying and defending life and liberty, of acquiring and protecting reputation and property, and, in general, of attaining objects suitable to their condition, without injury by one to another; and as these rights are essential to their welfare, for the due exercise thereof, power is inherent in them; and therefore all just authority in the institutions of political society is derived from the people, and established with their consent, to advance their happiness. And they may for this end, as circumstances require, from time to time, alter their constitution of government.

ARTICLE I.

SECTION 1. Although it is the duty of all men frequently to assemble together for the public worship of the Author of the universe, and piety and morality, on which the prosperity of communities depends, are thereby promoted, yet no man shall, or ought to be compelled to attend any religious worship, to contribute to the erection or support of any place of worship, or to the maintenance of any ministry, against his own free will and consent; and no power shall or ought to be vested in or assumed by any magistrate that shall, in any case, interfere with, or in any manner control, the rights of conscience in the free exercise of religious worship; nor shall a preference be given by law to any religious societies, denomination, or modes of worship.

SEC. 2. No religious test shall be required as a qualification to any office or public trust under this State.

SEC. 3. All elections shall be free and equal.

SEC. 4. Trial by jury shall be as heretofore.

SEC. 5. The press shall be free to every citizen who undertakes to examine the official conduct of men acting in a public capacity, and any citizen may print on any such subject, being responsible for the abuse of that liberty. In prosecutions for publications investing the proceedings of officers, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels the jury may determine the facts and the law as in other cases.

SEC. 6. The people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures, and no warrant to search any place, or to seize any person or things, shall issue without describing them as particularly as may be, nor then, unless there be probable cause supported by oath or affirmation.

SEC. 7. In all criminal prosecution the accused hath a right to be heard by himself and his counsel; to be plainly and fully informed of the nature and cause of the accusation against him; to meet the witnesses in their examination face to face; to have compulsory process in due time, on application by himself, his friends, or counsel, for obtaining witnesses in his favor, and a speedy and public trial by an impartial jury. He shall not be compelled to give evidence against himself; nor shall he be deprived of life, liberty, or property, unless by the judgment of his peers or the law of the land.

SEC. 8. No person shall for any indictable offence be proceeded against criminally by information, except in cases arising in the land and naval forces, or in the militia when in actual service in time of war or public danger, and no person shall be for the same offence twice put in jeopardy of life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives, and without compensation being made.

SEC. 9. All courts shall be open; and every man for an injury done him in his reputation, person, movable or immovable possessions, shall have remedy by the due

* This constitution, which is that originally adopted in 1792, with important amendments, was framed by a convention which met November 8, 1831.

course of law, and justice administered according to the very right of the cause and the law of the land, without sale, denial, or unreasonable delay or expense; and every action shall be tried in the county in which it shall be commenced, unless when the judges of the court in which the cause is to be tried shall determine that an impartial trial therefor cannot be had in that county. Suits may be brought against the State, according to such regulations as shall be made by law.

SEC. 10. No power of suspending laws shall be exercised, but by authority of the legislature.

SEC. 11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishment inflicted; and in the construction of jails a proper regard shall be had to the health of prisoners.

SEC. 12. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is positive or the presumption great; and when persons are confined on accusation for such offences, their friends and counsel may at proper seasons have access to them.

SEC. 13. The privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require it.

SEC. 14. No commission of oyer and terminer or jail-delivery shall be issued.

SEC. 15. No attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate. The estates of those who destroy their own lives shall descend or vest as in case of natural death; and if any person be killed by accident, no forfeiture shall be thereby incurred.

SEC. 16. Although disobedience to laws by a part of the people, upon suggestions of impolicy or injustice in them, tends, by immediate effect and the influence of example, not only to endanger the public welfare and safety, but also in governments of a republican form contravenes the social principles of such governments founded on common consent for common good, yet the citizens have a right in an orderly manner to meet together, and to apply to persons intrusted with the powers of government for redress of grievances or other proper purposes, by petition, remonstrance, or address.

SEC. 17. No standing army shall be kept up without the consent of the legislature: and the military shall, in all cases and at all times, be in strict subordination to the civil power.

SEC. 18. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but by a civil magistrate, in a manner to be prescribed by law.

SEC. 19. No hereditary distinction shall be granted, nor any office created or exercised, the appointments to which shall be for a longer term than during good behavior; and no person holding any office under this State shall accept of any office or title of any kind whatever, from any king, prince, or foreign state.

We declare that everything in this article is reserved out of the general powers of government hereinafter mentioned.

ARTICLE II.

SECTION 1. The legislative power of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives.

SEC. 2. The representatives shall be chosen [for two years] by the citizens residing in the several counties.

No person shall be a representative who shall not have attained the age of twenty-four years, and have been a citizen and inhabitant of the State three years next preceding the first meeting of the legislature after his election, and the last year of that term an inhabitant of the county in which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State.

There shall be seven representatives chosen in each county, until a greater number of representatives shall by the general assembly be judged necessary; and then, two-thirds of each branch of the legislature concurring, they may by law make provision for increasing their number.

Sec. 3. The senators shall be chosen for four years by the citizens residing in the several counties.

No person shall be a senator who shall not have attained to the age of twenty-seven years, and have, in the county in which he shall be chosen, a freehold estate in two hundred acres of land, or an estate in real or personal property, or in either, of the value of one thousand pounds at least, and have been a citizen and inhabitant of the State three years next preceding the first meeting of the legislature after his election, and the last year of that term an inhabitant of the county in which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State.

There shall be three senators chosen in each county. When a greater number of senators shall by the general assembly be judged necessary, two-thirds of each branch concurring, they may by law make provision for increasing their number; but the number of senators shall never be greater than one-half nor less than one-third of the number of representatives.

If the office of representative or the office of senator become vacant before the regular expiration of the term thereof, a representative or a senator shall be elected to fill such vacancy, and shall hold the office for the residue of said term.

When there is a vacancy in either house of the general assembly, and the general assembly is not in session, the governor shall have power to issue a writ of election to fill such vacancy; which writ shall be executed as a writ issued by a speaker of either house in case of vacancy.

Sec. 4. The general assembly shall meet on the first Tuesday of January, biennially, unless sooner convened by the governor.

The first meeting of the general assembly, under this amended constitution, shall be on the first Tuesday of January, in the year of our Lord 1833, which shall be the commencement of the biennial sessions.

Sec. 5. Each house shall choose its speaker and other officers; and also each house, whose speaker shall exercise the office of governor, may choose a speaker *pro tempore*.

Sec. 6. Each house shall judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members in such manner and under such penalties as shall be deemed expedient.

Sec. 7. Each house may determine the rules of its proceedings, punish any of its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, and shall have all other powers necessary for a branch of the legislature of a free and independent State.

Sec. 8. Each house shall keep a journal of its proceedings, and publish them immediately after every session, except such parts as may require secrecy, and the yeas and nays of the members on any question shall, at the desire of any member, be entered on the journal.

Sec. 9. The doors of each house, and of committees of the whole, shall be open, unless when the business is such as ought to be kept secret.

Sec. 10. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sec. 11. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the State; but no law varying the compensation shall take effect until an election of the representatives shall have intervened. They shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

Sec. 12. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall have been increased, during such time. No person concerned in any army or navy contracts, nor member of Congress, nor

any person holding any office under this State, or the United States, except the attorney-general, officers usually appointed by the courts of justice, respectively, attorneys at law, and officers in the militia, holding no disqualifying office, shall, during his continuance in Congress or in office, be a senator or representative.

SEC. 13. When vacancies happen in either house, writs of election shall be issued by the speakers respectively, or in cases of necessity, in such other manner as shall be provided by law; and the persons thereupon chosen shall hold their seats as long as those in whose stead they are elected might have done if such vacancies had not happened.

SEC. 14. All bills for raising revenue shall originate in the house of representatives; but the senate may propose alterations as on other bills; and no bill, from the operations of which, when passed into a law, revenue may incidentally arise, shall be accounted a bill for raising revenue; nor shall any matter or clause whatever, not immediately relating to and necessary for raising revenue, be in any manner blended with or annexed to a bill for raising revenue.

SEC. 15. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published *at least once in every two years.*

SEC. 16. The State treasurer shall be appointed biennially by the house of representatives, with the concurrence of the senate. In case of vacancy in the office of State treasurer in the recess of the general assembly, either through omission of the general assembly to appoint, or by the death, removal out of the State, resignation, or inability of the State treasurer, or his failure to give security, the governor shall fill the vacancy by appointment, to continue until the next meeting of the general assembly. The State treasurer shall settle his accounts annually with the general assembly, or a committee thereof, which shall be appointed at every biennial session. No person who hath served in the office of State treasurer shall be eligible to a seat in either house of the general assembly until he shall have made a final settlement of his accounts as treasurer, and discharged the balance, if any, due thereon.

SEC. 17. No act of incorporation, except for the renewal of existing corporations, shall be hereafter enacted without the concurrence of two-thirds of each branch of the legislature, and with a reserved power of revocation by the legislature; and no act of incorporation which may be hereafter enacted shall continue in force for a longer period than twenty years, without the reënactment of the legislature, unless it be an incorporation for public improvement.*

ARTICLE III.

SECTION 1. The supreme executive powers of the State shall be vested in a governor.

SEC. 2. The governor shall be chosen by the citizens of the State.

The returns of every election for governor shall be sealed up, and immediately delivered by the returning officers of the several counties to the speaker of the senate, or, in case of the vacancy of the office of the speaker of the senate, or his absence from the State, to the secretary of state, who shall keep the same until a speaker of the senate shall be appointed, to whom they shall be immediately delivered after his appointment, who shall open and publish the same in the presence of the members of both houses of the legislature. Duplicates of the said returns shall also be immediately lodged with the prothonotary of each county. The person having the highest number of votes shall be governor; but if two or more shall be equal in the highest number of votes, the members of the two houses shall, by joint ballot, choose one of them to be governor; and if, upon such ballot, two or more of them shall still be equal and highest in votes, the speaker of the senate shall have an additional casting vote.

Contested elections of a governor shall be determined by a joint committee, consisting of one-third of all the members of each branch of the legislature, to be selected by ballot of the house respectively; every person of the committee shall take an oath or affirmation that in determining the said election he will faithfully discharge the trust reposed in him; and the committee shall always sit with open doors.

*Amended in 1875.

SEC. 3. The governor shall hold his office during four years from the third Tuesday in January next ensuing his election, and shall not be eligible a second time to said office.

SEC. 4. He shall be at least thirty years of age, and have been a citizen and inhabitant of the United States twelve years next before the first meeting of the legislature after his election, and the last six of that term an inhabitant of this State, unless he shall have been absent on the public business of the United States, or of this State.

SEC. 5. No member of Congress, nor person holding any office under the United States, or this State, shall exercise the office of governor.

SEC. 6. The governor shall, at stated times, receive for his services an adequate salary, to be fixed by law, which shall be neither increased nor diminished during the period for which he shall have been elected.

SEC. 7. He shall be commander-in-chief of the army and navy of the State, and of the militia, except when they shall be called into the service of the United States.

SEC. 8. He shall appoint all officers whose offices are established by this constitution, or shall be established by law, and whose appointments are not herein otherwise provided for; but no person shall be appointed to an office within a county, who shall not have a right to vote for representatives, and have been an inhabitant therein one year next before his appointment, nor hold the office longer than he continues to reside in the county. No member of Congress, nor any person holding or exercising any office under the United States, shall at the same time hold or exercise the office of judge, treasurer, attorney-general, secretary, prothonotary, register for the probate of wills and granting letters of administration, recorder, sheriff, or any office under this State, with a salary by law annexed to it, or any other office which the legislature shall declare incompatible with offices or appointments under the United States. No person shall hold more than one of the following offices at the same time, to wit: treasurer, attorney-general, prothonotary, register, or sheriff. All commissions shall be in the name of the State, shall be sealed with the great seal, and be signed and tested by the governor.

SEC. 9. He shall have power to remit fines and forfeitures, and to grant reprieves and pardons, except in cases of impeachment. He shall set forth in writing, fully, the grounds of all reprieves, pardons, and remissions, to be entered in the register of his official acts, and laid before the general assembly at their next session.

SEC. 10. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 11. He shall, from time to time, give to the general assembly information of affairs concerning the State, and recommend to their consideration such measures as he shall judge expedient.

SEC. 12. He may, on extraordinary occasions, convene the general assembly; and, in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding three months.

SEC. 13. He shall take care that the laws be faithfully executed.

SEC. 14. Upon any vacancy happening in the office of governor by his death, removal, resignation, or inability, the speaker of the senate shall exercise the office until a governor elected by the people shall be duly qualified. If there be no speaker of the senate, or upon a further vacancy happening in the office by his death, removal, resignation, or inability, the speaker of the house of representatives shall exercise the office until a governor elected by the people shall be duly qualified. If the person elected governor shall die, or become disqualified, before the commencement of his term of office, or shall refuse to take the same, the person holding the office shall continue to exercise it until a governor shall be elected and duly qualified. If upon a vacancy happening in the office of governor there be no other person who can exercise said office within the provisions of the constitution, the secretary of state shall exercise the same until the next meeting of the general assembly, who shall immediately proceed to elect, by joint ballot of both houses, a person to exercise the office until a governor, elected by the people, shall be duly qualified. If a vacancy occur in the office of governor, or if the governor-elect die, or become disqualified, before the commencement of his term, or refuse to take the office, an election for governor

shall be held at the next general election, unless the vacancy happen within six days next preceding the election, exclusive of the day of the happening of the vacancy and the day of the election; in that case, if an election for governor would not have been held at said election, without the happening of such vacancy, no election for governor shall be held at said election in consequence of such vacancy. If the trial of a contested election shall continue longer than until the third Tuesday of January next ensuing the election of a governor, the governor of the last year, or the speaker of the senate, or of the house of representatives, who may then be in the exercise of the executive authority, shall continue therein until a determination of such contested election. The governor shall not be removed from his office for inability but with the concurrence of two-thirds of all the members of each branch of the legislature.

SEC. 15. A secretary shall be appointed and commissioned during the governor's continuance in office, if he shall so long behave himself well. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required by either branch of the legislature, lay the same, and all papers, minutes, and vouchers relative thereto, before them, and shall perform such other duties as shall be enjoined him by law. He shall have a compensation for his services, to be fixed by law.

ARTICLE IV.

SECTION 1. All elections for governor, senators, representatives, sheriffs, and coroners shall be held on the second Tuesday* of November, and be by ballot; and in such elections every free white male citizen of the age of twenty-two years or upwards, having resided in the State one year next before the election, and the last month thereof in the county where he offers to vote, and having within two years next before the election paid a county tax, which shall have been assessed at least six months before the election, shall enjoy the right of an elector; and every free white male citizen of the age of twenty-one years, and under the age of twenty-two years, having resided as aforesaid, shall be entitled to vote without payment of any tax: *Provided*, That no person in the military, naval, or marine service of the United States shall be considered as acquiring a residence in this State, by being stationed in any garrison, barrack, or military or naval place or station within this State; and no idiot, or insane person, or pauper, or person convicted of a crime deemed by law felony, shall enjoy the right of an elector; and that the legislature may impose the forfeiture of the right of suffrage as a punishment for crime.

SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from an arrest during their attendance at elections, and in going to and returning from them.

ARTICLE V.

SECTION 1. The house of representatives shall have the sole power of impeaching; but two-thirds of all the members must concur in an impeachment. All impeachments shall be tried by the senate; and when sitting for that purpose the senators shall be upon oath or affirmation to do justice according to the evidence. No person shall be convicted without the concurrencc of two-thirds of all the senators.

SEC. 2. The governor, and all other civil officers under this State, shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office. Judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted shall nevertheless be subject to indictment, trial, judgment, and punishment according to law.

SEC. 3. Treason against this State shall consist only in levying war against it, or in adhering to the enemies of the Government, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

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*Amended in 1855.

ARTICLE VI.

SECTION. 1. The judicial power of this State shall be vested in a court of errors and appeals, a superior court, a court of chancery, an orphans' court, a court of oyer and terminer, a court of general sessions of the peace and jail-delivery, a register's court, justices of the peace, and such other courts as the general assembly, with the concurrence of two-thirds of all the members of both houses, shall from time to time establish.

SEC. 2. To compose the said courts there shall be five judges in the State. One of them shall be chancellor of the State; he shall also be president of the orphans' court; he may be appointed in any part of the State. The other four judges shall compose the superior court, the court of oyer and terminer, and the court of general sessions of the peace and jail-delivery, as hereinafter prescribed. One of them shall be chief-justice of the State, and may be appointed in any part of it. The other three judges shall be associate judges, and one of them shall reside in each county.

SEC. 3. The superior court shall consist of the chief-justice and two associate judges. The chief-justice shall preside in every county, and in his absence the senior associate judge sitting in the county shall preside. No associate judge shall sit in the county in which he resides. Two of the said judges shall constitute a quorum. One may open and adjourn the court, and make all rules necessary for the expediting of business.

This court shall have jurisdiction of all causes of a civil nature, real, personal, and mixed, at common law, and all other the jurisdiction and powers vested by the laws of this State in the supreme court or court of common pleas.

SEC. 4. The court of general sessions of the peace and jail-delivery shall be composed in each county of the same judges and in the same manner as the superior court. Two shall constitute a quorum. One may open and adjourn the court. This court shall have all the jurisdiction and powers vested by the laws of this State in the court of general quarter sessions of the peace and jail-delivery.

SEC. 5. The chancellor shall hold the court of chancery. This court shall have all the powers vested by the laws of this State in the court of chancery.

SEC. 6. The court of oyer and terminer shall consist of all the judges except the chancellor. Three of the said judges shall constitute a quorum. One may open and adjourn the court. This court shall exercise the jurisdiction now vested in the courts of oyer and terminer and general jail-delivery by the laws of this State. In the absence of the chief-justice, the senior associate present shall preside.

SEC. 7. The court of errors and appeals shall have jurisdiction to issue writs of error to the superior court, and to receive appeals from the court of chancery, and to determine finally all matters in error in the judgments and proceedings of said superior court, and all matters of appeal in the interlocutory or final decrees and proceedings in chancery. The court of errors and appeals upon a writ of error to the superior court shall consist of three judges at least; that is to say, the chancellor, who shall preside, the associate judge who could not on account of his residence sit in the cause below, and one of the judges who did sit in the said cause. The judges of the superior court to whom it appertains to hold the superior court in each county shall sit alternately in the court of errors and appeals in cases in error brought from the superior court held in such county, according to the following rotation, that is to say: if the judgment below be rendered in the court in New Castle County at the first term of the said court there, the chief-justice shall sit; if at the second term of said court there, the associate judge for Kent County shall sit; and if at the third term of said court there, the associate judge for Sussex County shall sit. If the judgment below be rendered in the court in Kent County at the first term of said court there, the associate judge for Sussex County shall sit; if at the second term of the said court there, the associate judge for New Castle County shall sit; and if at the third term of the court there, the chief-justice shall sit. If the judgment below be rendered in the court in Sussex County at the first term of said court there, the associate judge for New Castle County shall sit; if at the second term of said court there, the chief-justice shall sit, and if at the third term of said court there, the associate judge for Kent

County shall sit; and so from term to term, in every succeeding rotation, the judges beginning and following each other in the same order. But if in any case, in the court of errors and appeals, the judge who sat in the cause below, and ought according to this provision to sit in the court of errors and appeals, be absent, unable, or disqualified, then either of the other judges who sat in the cause below may sit; and the court shall have power to prevent any inconvenience or delay from observing the rotation above described, by making an order or regulation for either of the judges who sat in the cause below to sit in such cause in the court of errors and appeals. If a judge did not sit in the cause below, he shall sit in the said cause in the court of errors and appeals, unless there be a legal exception to him; but the court, if there be three judges present, may proceed in his absence.

Whenever the superior court consider that a question of law ought to be decided before all the judges, they shall have power, upon the application of either party, to direct it to be heard in the court of errors and appeals; and in that case the chancellor and four judges shall compose the court of errors and appeals, the chancellor presiding, and any four of them being a quorum; and, in the absence of the chancellor, the chief-justice shall preside. The superior court in exercising this power may direct a cause to be proceeded in to verdict and judgment in that court, or to be otherwise proceeded in, as shall be best for expediting justice.

Upon appeal from the court of chancery, the court of errors and appeals shall consist of the chief-justice and three associate judges; any three of them shall be a quorum.

SEC. 8. In matters of chancery jurisdiction in which the chancellor is interested, the chief-justice sitting in the superior court without the associate judges, shall have jurisdiction, with an appeal to the court of errors and appeals, which shall consist in this case of the three associate judges, the senior associate judge presiding.

SEC. 9. The governor shall have power to commission a judge *ad litem*, to decide any cause in which there is a legal exception to the chancellor, or any judge, so that such appointment is necessary to constitute a quorum in either court. The commission in such case shall confine the office to the cause, and it shall expire on the determination of the cause. The judge so appointed shall receive a reasonable compensation, to be fixed by the general assembly. A member of Congress, or any person holding or exercising an office under the United States, shall not be disqualified from being appointed a judge *ad litem*.

SEC. 10. The orphans' court in each county shall be held by the chancellor and the associate judge residing in the county, the chancellor being president. Either of them, in the absence of the other, may hold the court. When they concur in opinion, there shall be no appeal from their decision except in matter of real estate. When their opinions are opposed, or when a decision is made by one of them, and in all matters involving a right to real estate, or the appraised value or other value thereof, there shall be an appeal to the superior court for the county, which shall have final jurisdiction in every such case. This court shall have all the jurisdiction and powers vested by the laws of this State in the orphans' court.

SEC. 11. The jurisdiction of each of the aforesaid courts shall be co-extensive with the State. Process may be issued out of each court, in either county, into every county.

SEC. 12. The general assembly, notwithstanding anything contained in this article, shall have power to repeal or alter any act of the general assembly, giving jurisdiction to the courts of oyer and terminer and general jail-delivery, or to the supreme court, or the court of common pleas, or the court of general quarter sessions of the peace and general jail-delivery, or the orphans' court, or to the court of chancery, in any matter, or giving any power to either of said courts. Until the general assembly shall otherwise direct, there shall be an appeal to the court of errors and appeals in all cases in which there is an appeal, according to any act of the general assembly, to the high court of errors and appeals.

SEC. 13. Until the general assembly shall otherwise provide, the chancellor shall exercise all the powers which any law of the State vests in the chancellor besides the general powers of the court of chancery; and the chief-justice and associate judges

shall each singly exercise all the powers which any law of this State vests in the judges singly of the supreme court or court of common pleas.

SEC. 14. The chancellor and judges shall respectively hold their offices during good behavior, and receive for their services a compensation which shall be fixed by law and paid quarterly, and shall not be less than the following sums, that is to say: the annual salary of the chief-justice shall not be less than the sum of one thousand two hundred dollars; and the annual salary of the chancellor shall not be less than the sum of one thousand one hundred dollars; and the annual salaries of the associate judges, respectively, shall not be less than the sum of one thousand dollars each. They shall hold no other office of profit, nor receive any fees or perquisites in addition to their salaries for business done by them. The governor may, for any reasonable cause, in his discretion, remove any of them on the address of two-thirds of all the members of each branch of the general assembly. In all cases where the legislature shall so address the governor, the cause of removal shall be entered on the journals of each house. The judge against whom the legislature may be about to proceed shall receive notice thereof, accompanied with the causes alleged for his removal, at least five days before the day on which either house of the general assembly shall act thereupon.

SEC. 15. The general assembly may by law give to any inferior courts by them to be established, or to one or more justices of the peace, jurisdiction of the criminal matters following, that is to say, assaults and batteries, keeping without license a public house of entertainment, tavern, inn, ale-house, ordinary, or victualling house, retailing or selling without license wine, rum, brandy, gin, whiskey, or spirituous or mixed liquors contrary to law, disturbing camp-meetings held for the purpose of religious worship, disturbing other meetings for the purpose of religious worship, nuisances, horse-racing, cock-fighting, and shooting-matches, larcenies committed by negroes or mulattoes, and the offence of knowingly buying, receiving or concealing, by negroes or mulattoes, of stolen goods and things the subject of larceny, and of any negro or mulatto being accessary to any larceny. The general assembly may by law regulate this jurisdiction, and provide that the proceedings shall be with or without indictment by grand jury, or trial by petit jury, and may grant or deny the privilege of appeal to the court of general sessions of the peace. The matters within this section shall be, and the same hereby are, excepted and excluded from the provision of the constitution that "No person shall for an indictable offence be proceeded against criminally by information," and also from the provision of the constitution concerning trial by jury.

SEC. 16. In civil causes, when pending, the superior court shall have the power, before judgment, of directing, upon such terms as they shall deem reasonable, amendments in pleadings and legal proceedings, so that by error in any of them the determination of causes, according to their real merits, shall not be hindered; and also of directing the examination of witnesses that are aged, very infirm, or going out of the State, upon interrogatories *de bene esse*, to be read in evidence, in case of the death or departure of the witnesses before the trial, or inability by reason of age, sickness, bodily infirmity, or imprisonment, then to attend; and also the power of obtaining evidence from places not within this State.

SEC. 17. At any time pending an action for debt or damages, the defendant may bring into court a sum of money for discharging the same, and the cost then accrued, and the plaintiff not accepting thereof, it shall be delivered for his use to the clerk or prothonotary of the court; and if, upon the final decision of the cause, the plaintiff shall not recover a greater sum than that so paid into court for him, he shall not recover any costs accruing after such payment, except where the plaintiff is an executor or administrator.

SEC. 18. By the death of any party, no suit in chancery or at law, where the cause of action survives, shall abate, but, until the legislature shall otherwise provide, suggestion of such death being entered of record, the executor or administrator of a deceased petitioner or plaintiff may prosecute the said suit; and if a respondent or defendant dies, the executor or administrator being duly served with a *scire facias*, thirty days before the term thereof, shall be considered as a party to the suit, in

the same manner as if he had voluntarily made himself a party; and in any of those cases, the court shall pass a decree, or render judgment for or against the executors or administrators, as to right appertains. But where an executor or administrator of a deceased respondent or defendant becomes a party, the court, upon motion, shall grant such a continuance of the cause as to the judges shall appear proper.

SEC. 19. Whenever a person, not being an executor or administrator, appeals from a decree of the chancellor, or applies for a writ of error, such appeal or writ shall be no stay of proceeding in the chancery, or the court to which the writ issues, unless the appellant or plaintiff in error shall give sufficient security, to be approved respectively by the chancellor, or by a judge of the court from which the writ issues, that the appellant or plaintiff in error shall prosecute respectively his appeal or writ to effect, and pay the condemnation-money and all costs, or otherwise abide the decree in appeal, or the judgment in error, if he fail to make his plea good.

SEC. 20. No writ of error shall be brought upon any judgment heretofore confessed, entered, or rendered, but within five years from this time; nor upon any judgment hereafter to be confessed, entered, or rendered, but within five years after the confessing, entering, or rendering thereof; unless the person entitled to such writ be an infant, *feme-covert*, *non compos mentis*, or a prisoner, and then with five years exclusive of the time of such disability.

SEC. 21. An executor, administrator, or guardian shall file every account with the register for the county, who shall, as soon as conveniently may be, carefully examine the particulars with the proofs thereof, in the presence of such executor, administrator, or guardian, and shall adjust and settle the same according to the very right of the matter and the law of the land; which account so settled shall remain in his office for inspection; and the executor, administrator, or guardian shall, within three months after such settlement, give due notice in writing to all persons entitled to shares of the estate, or to their guardians respectively, if residing within the State, that the account is lodged in the said office for inspection. Exceptions may be made by persons concerned, to both sides of every such account, either denying the justice of the allowances made to the accountant, or alleging further charges against him; and the exceptions shall be heard in the orphans' court for the county; and thereupon the account shall be adjusted and settled according to the right of the matter and the law of the land.

SEC. 22. The registers of the several counties shall respectively hold the register's court in each county. Upon the litigation of a cause the depositions of the witnesses examined shall be taken at large in writing, and make part of the proceedings in the cause. This court may issue process throughout the State to compel the attendance of witnesses. Appeals may be made from the register's court to the superior court, whose decision shall be final. In cases where a register is interested in questions concerning the probate of wills, the granting letters of administration, or executors, administrators, or guardians' accounts, the cognizance thereof shall belong to the orphans' court, with an appeal to the superior court, whose decisions shall be final.

SEC. 23. The prothonotary of the superior court may issue process, take recognizances of bail, and enter judgments according to law and the practice of the court. No judgment in one county shall bind lands or tenements in another, until a *testatum fieri facias* being issued, shall be entered of record in the office of the prothonotary of the county wherein the lands or tenements are situated.

SEC. 24. The governor shall appoint a competent number of persons to the office of justice of the peace, not exceeding twelve in each county, until two-thirds of both houses of the legislature shall by law direct an addition to the number, who shall be commissioned for seven years, if so long they shall behave themselves well, but may be removed by the governor within that time on conviction of misbehavior in office, or on the address of both houses of the legislature.

SEC. 25. The style in all process and public acts shall be, "*The State of Delaware.*" Prosecutions shall be carried on in the name of the State.

ARTICLE VII.

SECTION. 1. The members of the senate and house of representatives, the chancellor, the judges, and the attorney-general shall, by virtue of their offices, be conservators of the peace throughout the State; and the treasurer, secretary, prothonotaries, registers, recorders, sheriffs, and coroners shall, by virtue of their offices, be conservators thereof within the counties respectively in which they reside.

SEC. 2. The Representative, and, when there shall be more than one, the Representatives of the people of this State in Congress, shall be voted for at the same places where representatives in the legislature are voted for, and in the same manner.

SEC. 3. The sheriff and coroner of each county shall be chosen by the citizens residing in such county. They shall hold their respective offices for two years, if so long they behave themselves well, and until successors be duly qualified; but no person shall be twice chosen sheriff upon election by the citizens in any term of four years. They shall be commissioned by the governor. The governor shall fill vacancies in these offices by appointments to continue until the next election, and until successors shall be duly qualified. The legislature, two-thirds of each branch concurring, may vest the appointment of sheriffs and coroners in the governor; but no person shall be twice appointed sheriff in any term of six years.

SEC. 4. The attorney-general, registers in chancery, prothonotaries, registers, clerks of the orphans' court and of the peace, shall respectively be commissioned for five years, if so long they shall behave themselves well, but may be removed by the governor within that time on conviction of misbehavior in office, or on the address of both houses of the legislature. Prothonotaries, registers in chancery, clerks of the orphans' court, registers, recorders, and sheriffs, shall keep their offices in the town or place in each county in which the superior court is usually held.

SEC. 5. Attorneys at law, all inferior officers in the treasury department, election officers, officers relating to taxes, to the poor, and to highways, constables and hundred officers, shall be appointed in such manner as is or may be directed by law.

SEC. 6. All salaries and fees annexed to officers shall be moderate; and no officer shall receive any fees whatever without giving to the person who pays a receipt for them, if required, therein specifying every particular, and the charge for it.

SEC. 7. No costs shall be paid by a person accused on a bill being returned ignoramus, nor on acquittal by a jury.

SEC. 8. The rights, privileges, immunities, and estates of religious societies and corporate bodies shall remain as if the constitution of this State had not been altered. No ordained clergyman or ordained preacher of the gospel of any denomination shall be capable of holding any civil office in the State, or of being a member of either branch of the legislature while he continues in the exercise of the pastoral or clerical functions.

SEC. 9. All the laws of this State existing at the time of making this constitution, and not inconsistent with it, shall remain in force, unless they shall be altered by future laws; and all actions and prosecutions now pending shall proceed as if this constitution had not been made.

SEC. 10. This constitution shall be prefixed to every edition of the laws made by direction of the legislature.

SEC. 11. The legislature shall, as soon as conveniently may be, provide by law for ascertaining what statutes and parts of statutes shall continue to be in force within this State; for reducing them and all acts of the general assembly into such order, and publishing them in such manner that thereby the knowledge of them may be generally diffused; for choosing inspectors and judges of elections, and regulating the same in such manner as shall most effectually guard the rights of the citizens entitled to vote; for better securing personal liberty, and easily and speedily redressing all wrongful restraints thereof; for more certainly obtaining returns of impartial juries; for dividing lands and tenements in sales by sheriffs, where they will bear a division, into as many parcels as may be without spoiling the whole, and for advertising and making the sales in such manner and at such times and places as may

render them most beneficial to all persons concerned; and for establishing schools and promoting arts and sciences.

SEC. 12. No property qualification shall be necessary to the holding of any office in this State, except the office of senator in the general assembly, and the office of assessor, inquisitor on lands, and levy-court commissioner, and except such offices as the general assembly shall by law designate.

ARTICLE VIII.

Members of the general assembly and all officers, executive and judicial, shall be bound by oath or affirmation to support the constitution of this State, and to perform the duties of their respective offices with fidelity.

ARTICLE IX.

The general assembly, whenever two-thirds of each house shall deem it necessary, may, with the approbation of the governor, propose amendments to this constitution, and at least three, and not more than six months before the next general election of representatives, duly publish them in print for the consideration of the people; and if three-fourths of eaeh branch of the legislature shall, after such an election and before another, ratify the said amendments, they shall be valid to all intents and purposes as parts of this constitution. No convention shall be called but by the authority of the people; and an unexceptionable mode of making their sense known will be for them at a special election on the third Tuesday of May in any year to vote by ballot for or against a convention, as they shall severally choose to do; and if thereupon it shall appear that a majority of all the citizens in the State, having right to vote for representatives, have voted for a convention, the general assembly shall accordingly at their next session call a convention, to consist of at least as many members as there are in both houses of the legislature, to be chosen in the same manner, at the same places, and at the same time that representatives are by the citizens entitled to vote for representatives, on due notice given for one month, and to meet within three months after they shall be elected. The majority of all the citizens in the State having right to vote for representatives shall be ascertained by reference to the highest number of votes cast in the State at any one of the three general elections next preceding the day of voting for a convention, except when they may be less than the whole number of votes voted both for and against a convention, in which case the said majority shall be ascertained by reference to the number of votes given on the day of voting for or against a convention; and whenever the general assembly shall deem a convention necessary, they shall provide by law for the holding of a special election for the purpose of ascertaining the sense of the majority of the citizens of the State entitled to vote for representatives.

SCHEDULE.

That no inconveniences may arise from the amendments of the constitution of this State, and in order to carry the same into complete operation, it is hereby declared and ordained as follows:

SECTION 1. The offices of the present senate and representatives shall not be vacated by any amendment of the constitution made in this convention, nor otherwise affected, except that the terms of the representatives and the terms of the senators which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-two, are hereby extended to the second Tuesday of November in that year; and the terms of the senators which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-three, are hereby extended to the second Tuesday of November in that year. And the terms of the senators which will expire on the first Tuesday of October, in the year of our Lord one thousand eight hundred and thirty-four, are hereby extended to the second Tuesday of November in that year.

The general assembly shall meet on the first Tuesday of January next, and shall not be within the amended provision respecting biennial sessions, which biennial sessions shall commence with the session of the general assembly on the first Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-three.

SEC. 2. The offices of the present sheriffs and coroners shall not be vacated by any amendment to the constitution made in this convention, nor otherwise affected, except that the term of office of the sheriff of Sussex County is hereby extended to the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, and until a successor be duly qualified; and on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, shall be the first election for sheriff in Sussex County, under this amended constitution. And the term of the present coroner for Sussex County is hereby extended to the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-four, and until a successor shall be duly qualified; and on the said last-mentioned day shall be the first election for coroner in Sussex County under this amended constitution.

The terms of the present sheriffs and coroners for Kent County and New Castle County are hereby extended to the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, and until successors to them respectively be duly qualified; and on or after the first Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, the governor shall have power to appoint a sheriff and a coroner for New Castle County, and a sheriff and coroner for Kent County, to continue in office until the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-four, and until successors to them respectively be duly qualified. And on the said last-mentioned day shall be the first election for sheriff and for coroner in New Castle County and in Kent County under this amended constitution, unless a vacancy happen in the office of sheriff or coroner of New Castle or Kent County, or of coroner for Sussex County, before the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two; in which case an election shall be held on that day for a sheriff or a coroner under this amended constitution, in place of the sheriff or coroner whose office had become vacant.

SEC. 3. The first election for representatives under this amended constitution shall be held on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, which shall be the commencement of biennial elections. At this election one senator shall be chosen in each county for four years. Also, at the biennial election to be held in the several counties on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-four, two senators shall be chosen in each county for four years each. But as the term of one senator in each county will expire on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, when no election will be held to provide for this special case, a senator shall be chosen in each county, at the election held on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two, for one year, to succeed the senator for such county whose term shall expire on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-three, and to continue in office until the second Tuesday in November, in the year of our Lord one thousand eight hundred and thirty-four, when two senators shall be chosen in each county as afore provided.

SEC. 4. The term of office of the present governor shall not be vacated nor extended by amendment made to the constitution in this convention; but the said office shall continue during the original term thereof; but the ninth and fourteenth sections of the third article of this constitution shall be immediately in force as amended. An election for governor shall be held on the second Tuesday of November, in the year of our Lord one thousand eight hundred and thirty-two.

SEC. 5. This constitution as amended, so far as shall concern the judicial department, shall commence and be in operation from and after the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two. All the

courts of justice now existing shall continue with their present jurisdiction, and the chancellor and judges and the clerks of the said courts shall continue in office until the said third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two; upon which day the said courts shall be abolished, and the offices of the said chancellor, judges, and clerks shall expire. All writs of error and appeals and proceedings which, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the high court of errors and appeals, and all the books, records, and papers of said court, shall be transferred to the court of errors and appeals established by this amended constitution; and the said writs of errors, appeals, and proceedings shall be proceeded in, in the said court of errors and appeals, to final judgment, decree, or other determination.

All suits, proceedings, and matters which, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the supreme court, or court of common pleas, and all books, records, and papers of the said courts, shall be transferred to the superior court established by this amended constitution, and the said suits, proceedings, and matters shall be proceeded in to final judgment or determination in the said superior court. All indictments, proceedings, and matters which, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the court of general quarter sessions of the peace and jail-delivery, shall be transferred to and proceeded in to final judgment and determination in the court of general sessions of the peace and jail-delivery established by this amended constitution, and all books, records, and papers of said court of general quarter sessions of the peace and jail-delivery shall be transferred to the said court of general sessions of the peace and jail-delivery. All suits, proceedings, and matters which, on the third Tuesday of January, in the year of our Lord one thousand eight hundred and thirty-two, shall be depending in the court of chancery or in the orphans' court, and all records, books, and papers of said courts, respectively, shall be transferred to the court of chancery or orphans' court, respectively, established by this amended constitution, and the said suits, proceedings, and matters shall proceed in to final decree, order, or other determination.

Sec. 6. The registers' courts and justices of the peace shall not be affected by any amendments of the constitution made in this convention; but the said courts and the terms of office of registers and justices of the peace shall remain the same as if said amendments had not been made.

Sec. 7. The general assembly shall have power to make any law necessary to carry into effect this amended constitution.

Sec. 8. The provision in the twentieth section of the sixth article of this amended constitution (being the thirtieth section of the sixth article of the original constitution) of limitation of writs of error, shall have relation to, and take date from, the twelfth day of June, in the year of our Lord one thousand seven hundred and ninety-two, the date of said original constitution.

Sec. 9. The governor shall have power to issue writs of election to supply vacancies in either house of the general assembly that have happened or may happen.

Sec. 10. It is declared that nothing in this amended constitution gives a writ of error from the court of errors and appeals to the court of oyer and terminer, or court of general sessions of the peace and jail-delivery, nor an appeal from the court of general sessions of the peace and jail-delivery.

The acts of the general assembly, increasing the number of justices of the peace, shall remain in force until repealed by the general assembly; and no office shall be vacated by the amendment to this constitution, unless the same be expressly vacated thereby, or the vacating the same is necessary to give effect to the amendments.

AMENDMENTS TO THE CONSTITUTION OF 1831.

RATIFIED JANUARY 30, 1855.

ART. IV. SECTION 1. Strike out the date, and insert "on the Tuesday next after the first Monday in the month of November of the year;" so that it will read:

"All elections for governor, senators, representatives, sheriffs, and coroners shall be held on the Tuesday next after the first Monday in the month of November of the year in which they are to be held, and be by ballot."

RATIFIED JANUARY 28, 1875.

ARTICLE 1. Add SEC. 17. The legislature shall have power to enact a general incorporation act to provide incorporation for religious, charitable, literary, and manufacturing purposes, for the preservation of animal and vegetable food, building and loan associations, and for draining low lands; and no attempt shall be made, in such act or otherwise, to limit or qualify the power of revocation reserved to the legislature in this section.

FLORIDA.*

PREROGATIVES GRANTED TO CHRISTOPHER COLUMBUS.

FERDINAND and ELIZABETH, by the Grace of God, King and Queen of *Castile*, of *Leon*, of *Arragon*, of *Sicily*, of *Granada*, of *Toledo*, of *Valencia*, of *Galicia*, of *Majorca*, of *Minorca*, of *Sevil*, of *Sardinia*, of *Jaen*, of *Algarve*, of *Algezira*, of *Gibraltar*, of the *Canary Islands*, Count and Countess of *Barcelona*, Lord and Lady of *Biscay* and *Molina*, Duke and Duchess of *Athens* and *Neopatria*, Count and Countess of *Rousillion* and *Cerdaigne*, Marquess and Marchioness of *Oristan* and *Gociano*, *&c.* For as much as you, *Christopher Columbus*, are going by our command, with some of our vessels and men, to discover and subdue some Islands and Continent in the ocean, and it is hoped that by God's assistance, some of the said Islands and Continent in the ocean will be discovered and conquered by your means and conduct, therefore it is but just and reasonable, that since you expose yourself to such danger to serve us, you should be rewarded for it. And we being willing to honour and favour you for the reasons aforesaid; Our will is, That you, *Christopher Columbus*, after discovering and conquering the said Islands and Continent in the said ocean, or any of them, shall be our Admiral of the said Islands and Continent you shall so discover and conquer; and that you be our Admiral, Vice-Roy, and Governour in them, and that for the future, you may call and stile yourself, D. *Christopher Columbus*, and that your sons and successors in the said employment, may call themselves Dons, Admirals, Vice-Roys, and Governours of them; and that you may exercise the office of Admiral, with the charge of Vice-Roy and Governour of the said Islands and Continent, which you and your Lieutenants shall conquer, and freely decide all causes, civil and criminal, appertaining to the said employment of Admiral, Vice-Roy, and Governour, as you shall think fit in justice, and as the Admirals of our kingdoms use to do; and that you have power to punish offenders; and you and your Lieutenants exercise the employments of Admiral, Vice-Roy, and Governour, in all things belonging to the said offices, or any of them; and that you enjoy the perquisites and salaries belonging to the said employments, and to each of them, in the same manner as the High Admiral of our kingdoms does. And by this our letter, or a copy of it signed by a *Public Notary*: We command Prince *John*, our most dearly beloved Son, the Infants, Dukes, Prelates, Marquesses, Great Masters and Military Orders, Priors, Commendaries, our Counsellors, Judges, and other Officers of Justice whatsoever, belonging to our Household, Courts, and Chancery, and Constables of Castles, Strong Houses, and others; and all Corporations, Bayliffs, Governours, Judges, Commanders, Sea Officers; and the Aldermen, Common Council, Officers, and Good People of all Cities, Lands, and Places in our Kingdoms and Dominions, and in those you shall conquer and subdue, and the captains, masters, mates, and other officers and sailors, our natural subjects now being, or that shall be for the time to come, and any of them, that when you shall have discovered the said Islands and Continent in the ocean; and you, or any that shall have your commission, shall have taken the usual oath in such cases, that they for the future, look upon you as long as you live, and after you, your son and heir, and so from one

* Spain claimed and exercised the right of ultimate dominion over her possessions in America on the rights given by the discovery of America under this commission, and the grant of Pope Alexander. [See pages 305-307.]

heir to another forever, as our Admiral on our said Ocean, and as Vice-Roy and Governour of the said Islands and Continent, by you, *Christopher Columbus*, discovered and conquered; and that they treat you and your Lieutenants, by you appointed, for executing the employments of Admiral, Vice-Roy, and Governour, as such in all respects, and give you all the perquisites and other things belonging and appertaining to the said offices; and allow, and cause to be allowed you, all the honours, graces, concessions, prehemimences, prerogatives, immunities, and other things, or any of them which are due to you, by virtue of your commands of Admiral, Vice-roy, and Governour, and to be observed completely, so that nothing be diminished; and that they make no objection to this, or any part of it, nor suffer it to be made; forasmuch as we from this time forward, by this our letter, bestow on you the employments of Admiral, Vice-Roy, and perpetual Governour forever; and we put you into possession of the said offices, and of every of them, and full power to use and exercise them, and to receive the perquisites and salaries belonging to them, or any of them, as was said above. Concerning all which things, if it be requisite, and you shall desire it, We command our Chancellour, Notaries, and other Officers, to pass, seal, and deliver to you, our Letter of Privilege, in such firm and legal manner, as you shall require or stand in need of. And that none of them presume to do any thing to the contrary, upon pain of our displeasure, and forfeiture of 30 ducats for each offence. And we command him, who shall show them this our Letter, that he summon them to appear before us at our Court, where we shall then be, within fifteen days after such summons, under the said penalty. Under which same, we also command any Public Notary whatsoever, that he give to him that shows it him, a certificate under his seal, that we may know how our command is obeyed.

GIVEN at *Granada*, on the 30th of April, in the year of our Lord, 1492.—

I, THE KING, I, THE QUEEN.

By their Majesties Command,
JOHN COLOMA,
Secretary to the King and Queen.

BULL OF POPE ALEXANDER CONCEDING AMERICA TO SPAIN.

EXEMPLAR BULLÆ *seu Donationis Authoritate cujus, Episcopus Romanus* ALEXANDER *ejus nominis Sextus, concessit et donavit* CASTELLÆ *Regibus et suis successoribus, Regiones et Insulas Novi Orbis in Oceano occidentali Hispanorum navigationibus repertas.*

ALEXANDER *Episcopus, Servus Servorum Dei, Charissimo in Christo Filio, Ferdinando Regi, et Charissimæ in Christo Filiæ* Elizabeth *Reginæ Castellæ, Legionis, Arragonum, Siciliæ, et Granatæ, Illustribus, Salutem et Apostolicam Benedictionem.*

INTER cætera Divinæ Majestati bene placita opera et cordis nostri desiderabilia, illud profecto potissimum existit, ut Fides Catholica et Christiana Religio nostris præsertim temporibus exaltetur, ac ubilibet amplietur ac dilatetur, animarumque salus procuretur, ac barbaræ nationes deprimantur et ad Fidem ipsam reducantur. Unde cum ad hanc Sacram *Petri* Sedem Divina favente clementia (meritis licet imparibus) evocati fuerimus, cognoscentes vos tanquam vere Catholicos Reges et Principes: Quales semper fuisse novimus, et a vobis præclare gesta, toti pæne orbi notissima demonstrant, nedum id exoptare, sed omni conatu, studio, & diligentia, nullis laboribus, nullis impensis, nullisque parcendo periculis, etiam proprium sanguinem effundendo efficere, ac omnem animum vestrum, omnesque conatus ad hoc jamdudum dedicasse, quem admodum recuperatio Regni Granatæ a Tyrannide Saracenorum hodiernis temporibus per vos, cum tanta Divini nominis gloria facta, testatur. Digne

ducimur non immerito, et debemus illa vobis etiam sponte, ac favorabiliter concedere, per quæ hujusmodi sanctum ac laudabile ab immortali Deo acceptum propositum, indies ferventiori animo ad ipsus Dei honorem et Imperii Christiani propagationem, prosequi valeatis. Sane accepimus quod vos qui dudum animum proposueratis aliquas Insulas et Terras firmas remotas et incognitas, ac per alios hactenus non repertas, quærere et invenire, ut illarum incolas et habitatores ad colendum redemptorem nostrum et fidem Catholicam profitendum reduceritis, hactenus in expugnatione et recuperatione ipsius, Regni Granatæ plurimum occupati, hujusmodi sanctum et laudabile propositum vestrum ad optatum finem perducere nequivistis. Sed tandem sicut Domino placuit, Regno prædicto recuperato, volentes desiderium vestrum adimplere, dilectum filium *Christophorum Colonum*, virum utique dignum, et plurimum commendatum, ac tanto negotio aptum, cum navigiis et hominibus ad similia instructis, non sine maximis laboribus, ac periculis, et expensis destinastis ut Terras firmas et Insulas remotas et incognitas, hujusmodi per mare ubi hactenus navigatum non fuerat, diligenter inquireret. Qui tandem (Divino auxilio facta extrema diligentia in mari oceáno navigantes) certas Insulas remotissimas, et etiam Terras firmas, quæ per alios hactenus repertæ non fuerant, invenerunt. In quibus plurimæ gentes pacifice viventes, et (ut asseritur) nudi incedentes, nec carnibus vescentes, inhabitant. Et ut præfati nuntii vestri possunt opinari, gentes ipsæ in insulis, et terris prædictis habitantes, credunt unum Deum Creatorem in Cœlis esse, ac ad fidem Catholicam amplexandum et bonis moribus imbuendum, satis apti videntur: Spesque habetur, quod si erudirentur, nomen salvatoris Domini nostri Jesu Christi in terris et insulis prædictis facile induceretur. Ac præfatus *Christophorus* in una ex principalibus insulis prædictis, jam unam turrim satis munitam, in qua certos Christianos qui secum iverant, in custodiam, et ut alias insulas ac terras firmas remotas et incognitas inquirerent, posuit, construi et ædificari fecit. In quibus quidem insulis, et terris jam repertis, aurum, aromata, et aliæ quamplurimæ res prætiosæ diversi generis et diversæ qualitatis reperiuntur. Unde omnibus diligenter, et præsertim fidei Catholicæ exaltatione et dilatatione (prout decet Catholicos Reges et Principes) consideratis, more progenitorum vestrorum claræ memoriæ Regum, terras firmas et insulas prædictas, illarumque incolas et habitatores, vobis Divina favente clementia subjicere, et ad fidem Catholicam reducere proposuistis. Nos itaque hujusmodi vestrum sanctum et laudabile propositum plurimum in Domino commendantes, ac cupientes ut illud ad debitum finem perducatur, et ipsum nomen salvatoris nostri in partibus illis inducatur, hortamur vos quamplurimum in Domino, et per sacri lavacri susceptionem, qua mandatis apostolicis obligati estis, et per viscera misericordiæ Domini nostri Jesu Christi attente requirimus, ut cum expeditionem hujusmodi omnino prosequi et assumere prona mente orthodoxæ fidei zelo intendatis, populos in hujusmodi insulis et terris degentes, ad Christianam religionem suscipiendum inducere velitis et debeatis, nec pericula nec labores ullo unquam tempore vos deterreant, firma spe fiduciaque conceptis, quod Deus omnipotens conatus vestros fœliciter prosequetur. Et ut tanti negotii provinciam apostolicæ gratiæ largitate donati, liberius et audacius assumatis, motu proprio non ad vestram vel alterius pro vobis super hoc nobis oblatæ petitionis instantiam sed de nostra mera liberalitate, et ex certa scientia, ac de apostolicæ potestatis plenitudine, omnes insulas et terras firmas inventas et inveniendas, detectas et detegendas versus occidentem et meridiem, fabricando et construendo unam lineam a polo arctico, scilicet septentrione, ad polum antarcticum, scilicet meridiem, sive terræ firmæ et insulæ inventæ, et inveniendæ, sint versus Indiam, aut versus aliam quamcunque partem, quæ linea distet a qualibet insularum, quæ vulgariter nuncupantur de los Azores, et Cabo Verde, centum leucis versus occidentem et meridiem. Itaque omnes insulæ et terræ firmæ repertæ et reperiendæ, detectæ et detegendæ, a præfata linea versus occidentem et meridiem, quæ per alium Regem aut Principem Christianum non fuerint actualiter possessæ usque ad diem nativitatis Domini nostri Jesu Christi proxime præteritum, a quo incipit annus præsens millesimus quadringentesimus nonagesimus tertius, quando fuerunt per nuncios et capitaneos vestros inventæ aliquæ prædictarum insularum autoritate omnipotentis Dei nobis in beato *Petro* concessa, ac Vicariatus Jesu Christi qua fungimur in terris, cum omnibus illarum Dominiis, Civitatibus, Castris, Locis, et Villis, juribusque et ju-

risdictionibus ac pertinentiis universis vobis, hæredibusque, et successoribus vestris (Castellæ et Legionis Regibus) in perpetuum tenore præsentium donamus, concedimus et assignamus: Vosque, et hæredes ac successores præfatos illarum Dominos, cum plena, libera et omnimoda potestate, autoritate et jurisdictione, facimus, constituimus, et deputamus. Decernentes nihilo minus per hujusmodi donationem, concessionem, et assignationem nostram, nullo Christiano Principi, qui actualiter præfatas insulas et terras firmas possederit usque ad prædictum diem nativitatis Domini nostri Jesu Christi jus quæsitum, sublatum intelligi posse, aut auferri debere.

Et insuper mandamus vobis in virtute sanctæ obedientiæ (ut sicut pollicemini, et non dubitamus pro vestra maxima devotione et regia magnanimitate vos esse facturos) ad terras firmas et insulas prædictas, viros probos et Deum timentes, doctos, peritos, et expertos ad instruendum incolas et habitatores praefatos in fide Catholica, et bonis moribus imbuendum, destinare debeatis, omnem debitam diligentiam in præmissis adhibentes. Ac quibuscunque personis, cujuscunque dignitatis, etiam Imperalis et Regalis status, gradus, ordinis vel conditionis, sub excommunicationis latae sententiæ pœna quam eo ipso, si contra fecerint incurrant, districtius inhibemus ne ad insulas et terras firmas inventas et inveniendas, detectas et detegendas, versus occidentem et meridiem, fabricando et construendo lineam a polo arctico ad polum antarcticum, sive terræ firmae et insulæ inventæ et inveniendæ sint versus Indiam aut versus aliam quamcunque partem, quæ linea distet a qualibet insularum, quæ, vulgariter nuncupantur de los Azores et Cabo Verde centum leucis versus occidentem et meridiem ut præfertur pro mercibus habendis, vel quavis alia causa accedere præsumat, absque vestra ac hæredum et successorum vestrorum prædictorum licentia speciali: Non obstantibus constitutionibus et ordinationibus apostolicis, cæterisque quibuscunque, in illo in quo imperia et dominationes et bona cuncta procedunt: confidentes quod dirigente Domino actus vestros, si hujusmodi sanctum ac laudabile propositum prosequamini, brevi tempore cum felicitate et gloria totius populi Christiani, vestri labores et conatus exitum felicissimum consequenter. Verum quia difficile foret præsentes literas ad singula quæque loca in quibus expediens fuerit deferri, volumus ac motu et scientia similibus decernimus, quod illarum transumptis manu publici notarii inde rogati subscriptis, et sigillo alicujus personæ in ecclesiastica dignitate constituæt, seu curiæ ecclesiasticæ munitis, ea prorsus fides in judicio et extra, ac alias ubilibet adhibeatur, quæ præsentibus adhiberetur si essent adhibitæ vel ostensæ.

Nulli ergo omnino hominum liceat hanc Paginam nostræ commendationis, hortationis, requisitionis, donationis, concessionis, assignationis, constitutionis, deputationis, decreti, mandati, inhibitionis, et voluntatis, infringere, vel ei ausu temerario contraire. Si quis autem hoc attentare præsumpserit, indignationem Omnipotentis Dei, ac beatorum *Petri* et *Pauli* Apostolorum ejus, se noverit incursurum.

Datum Romæ, apud Sanctum *Petrum*, anno incarnationis Dominicæ 1493, quarto nonas Maii, Pontificatus nostri anno primo.

TREATY BETWEEN SPAIN AND THE UNITED STATES—1795.

[This treaty, which can be found in volume eight of the Statutes at Large, edition of 1848, pages 138–153, provides that: "The southern boundary of the United States, which divides their territory from the Spanish colonies of East and West Florida, shall be designated by a line beginning on the river Mississippi, at the northernmost part of the thirty-first degree of latitude north of the equator, which from thence shall be drawn due east to the middle of the river Apalachicola, or Catahouche, thence along the middle thereof to its junction with the Flint: thence straight to the head of Saint Mary's River, and thence down the middle thereof to the Atlantic Ocean."

It was agreed that a commissioner and a surveyor should be appointed by each of

the contracting parties, who should meet at Natchez and proceed to run and mark this boundary; and it was further ageed that the two high contracting parties should, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers which formed the boundaries of the two Floridas.]

TREATY WITH SPAIN CEDING FLORIDA.*

Treaty of amity, settlement, and limits between the United States of America and His Catholic Majesty.

The United States of America and His Catholic Majesty, desiring to consolidate, on a permanent basis, the friendship and good correspondence which happily prevails between the two parties, have determined to settle and terminate all their differences and pretensions, by a treaty, which shall designate, with precision, the limits of their respective bordering territories in North America.

With this intention the President of the United States has furnished with their full powers John Quincy Adams, Secretary of State of the said United States; and His Catholic Majesty has appointed the Most Excellent Lord Don Luis De Onis, Gonzales, Lopez y Vara, Lord of the Town of Rayaces, Perpetual Regidor of the Corporation of the city of Salamanca, Knight Grand Cross of the Royal American Order of Isabella the Catholic, decorated with the Lys of La Vendée, Knight Pensioner of the Royal and Distinguished Spanish Order of Charles the Third, Member of the Supreme Assembly of the said Royal Order; of the Council of His Catholic Majesty; his Secretary, with Exercise of Decrees, and His Envoy Extraordinary and Minister Plenipotentiary near the United States of America.

And the said Plenipotentiaries, after having exchanged their powers, have agreed upon and concluded the following articles:

Article I.

There shall be a firm and inviolable peace and sincere friendship between the United States and their citizens and His Catholic Majesty, his successors and subjects, without exception of persons or places.

Article II.

His Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to him, situated to the eastward of the Mississippi, known by the name of East and West Florida. The adjacent islands dependent on said provinces, all public lots and squares, vacant lands, public edifices, fortifications,

* This treaty was concluded February 22, 1819. The ratifications were exchanged February 22, 1821, and proclaimed February 22, 1821. By the treaty of Saint Ildefonso, made October 1, 1800, Spain had ceded Louisiana to France; and France, by the treaty of Paris, signed April 30, 1803, had ceded it to the United States. Under this treaty the United States claimed the countries between the Iberville and the Perdido. Spain contended that her cession to France comprehended only that territory which, at the time of the cession, was denominated Louisiana, consisting of the island of New Orleans, and the country which had been originally ceded to her by France west of the Mississippi. Congress passed a joint resolution, approved January 15, 1811, declaring that the United States, under the peculiar circumstances of the existing crisis, could not, without serious inquietude, see any part of this disputed territory pass into the hands of any foreign power; and that a due regard to their own safety compelled them to provide, under certain contingencies, for the temporary occupation of the disputed territory; they, at the same time, declaring that the territory should, in their hands, remain subject to future negotiation. An act of Congress, approved on the same day, authorized the President to take possession of and occupy all or any part of the territory lying east of the river Perdido and south of the State of Georgia and the Mississippi Territory, in case an arrangement had been, or should be, made with the local authority of the said territory, for delivering up the possession of the same, or any part thereof, to the United States, or in the event of an attempt to occupy the said territory, or any part thereof, by any foreign government.

barracks, and other buildings, which are not private property, archives and documents, which relate directly to the property and sovereignty of said provinces, are included in this article. The said archives and documents shall be left in possession of the commissaries or officers of the United States, duly authorized to receive them.

Article III.

The boundary-line between the two countries, west of the Mississippi, shall begin on the Gulph of Mexico, at the mouth of the river Sabine, in the sea, continuing north, along the western bank of that river, to the 32d degree of latitude; thence, by a line due north, to the degree of latitude where it strikes the Rio Roxo of Nachitoches, or Red River; then following the course of the Rio Roxo westward, to the degree of longitude 100 west from London and 23 from Washington; then, crossing the said Red River, and running thence, by a line due north, to the river Arkansas; thence, following the course of the southern bank of the Arkansas, to its source, in latitude 42 north; and thence, by that parallel of latitude, to the South Sea. The whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the first of January, 1818. But if the source of the Arkansas River shall be found to fall north or south of latitude 42, then the line shall run from the said source due south or north, as the case may be, till it meets the said parallel of latitude 42, and thence, along the said parallel, to the South Sea: All the islands in the Sabine, and the said Red and Arkansas Rivers, throughout the course thus described, to belong to the United States; but the use of the waters, and the navigation of the Sabine to the sea, and of the said rivers Roxo and Arkansas, throughout the extent of the said boundary, on their respective banks, shall be common to the respective inhabitants of both nations.

The two high contracting parties agree to cede and renounce all their rights, claims, and pretensions to the territories described by the said line, that is to say: The United States hereby cede to His Catholic Majesty, and renounce forever, all their rights, claims, and pretensions, to the territories lying west and south of the above-described line; and, in like manner, His Catholic Majesty cedes to the said United States all his rights, claims, and pretensions to any territories east and north of the said line, and for himself, his heirs, and successors, renounces all claim to the said territories forever.

Article IV.

To fix this line with more precision, and to place the landmarks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a Commissioner and a surveyor, who shall meet before the termination of one year from the date of the ratification of this treaty at Nachitoches, on the Red River, and proceed to run and mark the said line, from the mouth of the Sabine to the Red River, and from the Red River to the river Arkansas, and to ascertain the latitude of the source of the said river Arkansas, in conformity to what is above agreed upon and stipulated, and the line of latitude 42, to the South Sea: they shall make out plans, and keep journals of their proceedings, and the result agreed upon by them shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary articles to be furnished to those persons, and also as to their respective escorts, should such be deemed necessary.

Article V.

The inhabitants of the ceded territories shall be secured in the free exercise of their religion, without any restriction; and all those who may desire to remove to the Spanish dominions shall be permitted to sell or export their effects, at any time whatever, without being subject, in either case, to duties.

Article VI.

The inhabitants of the territories which His Catholic Majesty cedes to the United States, by this treaty, shall be incorporated in the Union of the United States as soon

as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States.

ARTICLE VII.

The officers and troops of His Catholic Majesty, in the territories hereby ceded by him to the United States, shall be withdrawn, and possession of the places occupied by them shall be given within six months after the exchange of the ratifications of this treaty, or sooner if possible, by the officers of His Catholic Majesty to the commissioners or officers of the United States duly appointed to receive them; and the United States shall furnish the transports and escort necessary to convey the Spanish officers and troops and their baggage to the Havana.

ARTICLE VIII.

All the grants of land made before the 24th of January, 1818, by His Catholic Majesty, or by his lawful authorities, in the said territories ceded by His Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands, to the same extent that the same grants would be valid if the territories had remained under the dominion of His Catholic Majesty. But the owners in possession of such lands, who, by reason of the recent circumstances of the Spanish nation, and the revolutions in Europe, have been prevented from fulfilling all the conditions of their grants, shall complete them within the terms limited in the same, respectively, from the date of this treaty; in default of which the said grants shall be null and void. All grants made since the said 24th of January, 1818, when the first proposal, on the part of His Catholic Majesty, for the cession of the Floridas was made, are hereby declared and agreed to be null and void.

ARTICLE IX.

The two high contracting parties, animated with the most earnest desire of conciliation, and with the object of putting an end to all the differences which have existed between them, and of confirming the good understanding which they wish to be forever maintained between them, reciprocally renounce all claims for damages or injuries which they, themselves, as well as their respective citizens and subjects, may have suffered until the time of signing this treaty.

The renunciation of the United States will extend to all the injuries mentioned in the convention of the 11th of August, 1802.

2. To all claims on account of prizes made by French privateers, and condemned by French Consuls, within the territory and jurisdiction of Spain.

3. To all claims of indemnities on account of the suspension of the right of deposit at New Orleans in 1802.

4. To all claims of citizens of the United States upon the Government of Spain, arising from the unlawful seizures at sea, and in the ports and territories of Spain, or the Spanish colonies.

5. To all claims of citizens of the United States upon the Spanish Government, statements of which, soliciting the interposition of the Government of the United States, have been presented to the Department of State, or to the Minister of the United States in Spain, since the date of the convention of 1802, and until the signature of this treaty.

The renunciation of His Catholic Majesty extends—

1. To all the injuries mentioned in the convention of the 11th of August, 1802.

2. To the sums which His Catholic Majesty advanced for the return of Captain Pike from the Provincias Internas.

3. To all injuries caused by the expedition of Miranda, that was fitted out and equipped at New York.

4. To all claims of Spanish subjects upon the Government of the United States arising from unlawful seizures at sea, or within the ports and territorial jurisdiction of the United States.



Finally, to all the claims of subjects of His Catholic Majesty upon the Government of the United States in which the interposition of his Catholic Majesty's Government has been solicited, before the date of this treaty and since the date of the convention of 1802, or which may have been made to the department of foreign affairs of His Majesty, or to his Minister of the United States.

And the high contracting parties, respectively, renounce all claim to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.

The United States will cause satisfaction to be made for the injuries, if any, which, by process of law, shall be established to have been suffered by the Spanish officers, and individual Spanish inhabitants, by the late operations of the American Army in Florida.

ARTICLE X.

The convention entered into between the two Governments, on the 11th of August, 1802, the ratifications of which were exchanged the 21st December, 1818, is annulled.

ARTICLE XI.

The United States, exonerating Spain from all demands in future, on account of the claims of their citizens to which the renunciations herein contained extend, and considering them entirely cancelled, undertake to make satisfaction for the same, to an amount not exceeding five millions of dollars. To ascertain the full amount and validity of those claims, a commission, to consist of three Commissioners, citizens of the United States, shall be appointed by the President, by and with the advice and consent of the Senate, which commission shall meet at the city of Washington, and, within the space of three years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of all the claims included within the descriptions above mentioned. The said Commissioners shall take an oath or affirmation, to be entered on the record of their proceedings, for the faithful and diligent discharge of their duties; and, in case of the death, sickness, or necessary absence of any such Commissioner, his place may be supplied by the appointment, as aforesaid, or by the President of the United States, during the recess of the Senate, of another Commissioner in his stead. The said Commissioners shall be authorized to hear and examine, on oath, every question relative to the said claims, and to receive all suitable authentic testimony concerning the same. And the Spanish Government shall furnish all such documents and elucidations as may be in their possession, for the adjustment of the said claims, according to the principles of justice, the laws of nations, and the stipulations of the treaty between the two parties of 27th October, 1795; the said documents to be specified, when demanded, at the instance of the said Commissioners.

The payment of such claims as may be admitted and adjusted by the said Commissioners, or the major part of them, to an amount not exceeding five millions of dollars, shall be made by the United States, either immediately at their Treasury, or by the creation of stock, bearing an interest of six per cent. per annum, payable from the proceeds of sales of public lands within the territories hereby ceded to the United States, or in such other manner as the Congress of the United States may prescribe by law.

The records of the proceedings of the said Commissioners, together with the vouchers and documents produced before them, relative to the claims to be adjusted and decided upon by them, shall, after the close of their transactions, be deposited in the Department of State of the United States; and copies of them, or any part of them, shall be furnished to the Spanish Government, if required, at the demand of the Spanish Minister in the United States.

ARTICLE XII.

The treaty of limits and navigation, of 1795, remains confirmed in all and each one of its articles excepting the 2, 3, 4, 21, and the second clause of the 22d article, which, having been altered by this treaty, or having received their entire execution, are no longer valid.



With respect to the 15th article of the same treaty of friendship, limits, and navigation of 1795, in which it is stipulated that the flag shall cover the property, the two high contracting parties agree that this shall be so understood with respect to those powers who recognize this principle; but if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose government acknowledge this principle, and not of others.

Article XIII.

Both contracting parties, wishing to favor their mutual commerce, by affording in their ports every necessary assistance to their respective merchant-vessels, have agreed that the sailors who shall desert from their vessels in the ports of the other, shall be arrested and delivered up, at the instance of the consul, who shall prove, nevertheless, that the deserters belonged to the vessels that claimed them, exhibiting the document that is customary in their nation: that is to say, the American Consul in a Spanish port shall exhibit the document known by the name of articles, and the Spanish Consul in American ports the roll of the vessel; and if the name of the deserter or deserters who are claimed shall appear in the one or the other, they shall be arrested, held in custody, and delivered to the vessel to which they shall belong.

Article XIV.

The United States hereby certify that they have not received any compensation from France for the injuries they suffered from her privateers, Consuls, and tribunals on the coasts and in the ports of Spain, for the satisfaction of which provision is made by this treaty; and they will present an authentic statement of the prizes made, and of their true value, that Spain may avail herself of the same in such manner as she may deem just and proper.

Article XV.

The United States, to give to His Catholic Majesty a proof of their desire to cement the relations of amity subsisting between the two nations, and to favor the commerce of the subjects of His Catholic Majesty, agree that Spanish vessels, coming laden only with productions of Spanish growth or manufactures, directly from the ports of Spain, or of her colonies, shall be admitted, for the term of twelve years, to the ports of Pensacola and St. Augustine, in the Floridas, without paying other or higher duties on their cargoes, or of tonnage, than will be paid by the vessels of the United States. During the said term no other nation shall enjoy the same privileges within the ceded territories. The twelve years shall commence three months after the exchange of the ratifications of this treaty.

Article XVI.

The present treaty shall be ratified in due form, by the contracting parties, and the ratifications shall be exchanged in six months from this time, or sooner if possible.

In witness whereof we, the underwritten Plenipotentiaries of the United States of America and of His Catholic Majesty, have signed, by virtue of our powers, the present treaty of amity, settlement, and limits, and have thereunto affixed our seals, respectively.

Done at Washington this twenty-second day of February, one thousand eight hundred and nineteen.

JOHN QUINCY ADAMS. [L. S.]
LUIS DE ONIS. [L. S.]

THE TERRITORIAL GOVERNMENT OF FLORIDA—1822.

[SEVENTEENTH CONGRESS, FIRST SESSION.]

*An Act for the establishment of a territorial government in Florida.**

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that territory ceded by Spain to the United States, known by the name of East and West Florida, shall constitute a territory of the United States, under the name of the territory of Florida, the government whereof shall be organized and administered as follows:

SEC. 2. *And be it further enacted,* That the executive power shall be vested in a governor, who shall reside in the said territory, and hold his office during the term of three years, unless sooner removed by the President of the United States. He shall be commander-in-chief of the militia of the said territory, and be *ex-officio* superintendent of Indian affairs; and shall have power to grant pardons for offences against the said territory, and reprieves for those against the United States, until the decision of the President of the United States thereon shall be made known; and to appoint and commission all officers, civil and of the militia, whose appointments are not herein otherwise provided for, and which shall be established by law; he shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted,* That the secretary of the territory shall also be appointed, who shall hold his office during the term of four years, unless sooner removed by the President of the United States; whose duty it shall be, under the direction of the governor, to record and preserve all the papers and proceedings of the executive, and all the acts of the governor and legislative council, and transmit authentic copies of the proceedings of the governor, in his executive department, every six months, to the President of the United States.

SEC. 4. *And be it further enacted,* That, in case of the death, removal, resignation, or necessary absence, of the governor of the said territory, the secretary thereof shall be, and he is hereby, authorized and required to execute all the powers, and perform all the duties, of the governor, during the vacancy occasioned by the removal, resignation, or necessary absence, of the said governor.

SEC. 5. *And be it further enacted,* That the legislative power shall be vested in the governor, and in thirteen of the most fit and discreet persons of the territory, to be called the legislative council, who shall be appointed annually, by the President of the United States, by and with the advice and consent of the Senate, from among the citizens of the United States residing there. The governor, by and with the advice and consent of the said legislative council, or a majority of them, shall have power to alter, modify, or repeal the laws which may be in force at the commencement of this act. Their legislative powers shall also extend to all the rightful subjects of legislation; but no law shall be valid which is inconsistent with the constitution and laws of the United States, or which shall lay any person under restraint, burthen, or disability, on account of his religious opinions, professions, or worship; in all which he shall be free to maintain his own, and not burthened with those of another. The governor shall publish, throughout the said territory, all the laws which shall be made, and shall, on or before the first day of December in each year, report the same to the President of the United States, to be laid before Congress, which, if disapproved by Congress, shall thenceforth be of no force. The governor and legislative council shall have no power over the primary disposal of the soil, nor to tax the lands of the United States, nor to interfere with the claims to lands within said territory: the legislative council shall hold a session once in each year, commencing its first session on the second Monday of June next, at Pensacola, and continue in session not longer than two months; and thereafter on the first Monday in May, in each and every year;

*This act was amended by acts approved March 23, 1823; May 26, 1824; May 15, 1826; April 28, 1828; January 1, 1829; March 22, 1832; July 14, 1832; and June 18, 1834.



but shall not continue longer in session than four weeks; to be held at such place in said territory as the governor and council shall direct. It shall be the duty of the governor to obtain all the information in his power in relation to the customs, habits, and dispositions, of the inhabitants of the said territory, and communicate the same, from time to time, to the President of the United States.

SEC. 6. *And be it further enacted*, That the judicial power shall be vested in two superior courts, and in such inferior courts and justices of the peace, as the legislative council of the territory may, from time to time, establish. There shall be a superior court for that part of the territory known as East Florida, to consist of one judge; he shall hold a court on the first Mondays in January, April, July, and October, in each year, at St. Augustine, and at such other times and places as the legislative council shall direct. There shall be a superior court for that part of the territory known as West Florida, to consist of one judge; he shall hold a court at Pensacola on the first Mondays in January, April, July, and October, in each year, and at such other times and places as the legislative council shall direct. Within its limits, herein described, each court shall have jurisdiction in all criminal cases, and exclusive jurisdiction in all capital cases, and original jurisdiction in all civil cases of the value of one hundred dollars, arising under, and cognisable by, the laws of the territory, now of force therein, or which may, at any time, be enacted by the legislative council thereof. Each judge shall appoint a clerk for his respective court, who shall reside, respectively, at St. Augustine and Pensacola, and they shall keep the records there. Each clerk shall receive for his services, in all cases arising under the territorial laws, such fees as may be established by the legislative council.

SEC. 7. *And be it further enacted*, That each of said superior courts shall, moreover, have and exercise the same jurisdiction within its limits, in all cases arising under the laws and constitution of the United States, which, by an act to establish the judicial *power* [courts] of the United States, approved the twenty-fourth day of September, one thousand seven hundred and eighty-nine, and "An act in addition to the act, entitled 'An act to establish the judicial courts of the United States,'" approved the second day of March, one thousand seven hundred and ninety-three, was vested in the court of the Kentucky district. And writs of error and appeal from the decisions in the said superior court, authorized by this section of this act, shall be made to the Supreme Court of the United States, in the same cases, and under the same regulations, as from the circuit courts of the United States. The clerks, respectively, shall keep the records at the places where the courts are held, and shall receive, in all cases arising under the laws and constitution of the United States, the same fees which the clerk of the Kentucky district received for similar services, whilst that court exercised the powers of the circuit and district courts. There shall be appointed, in the said territory, two persons learned in the law, to act as attorneys for the United States as well as for the territory; one for that part of the territory known as East Florida, the other for that part of the territory known as West Florida: to each of whom, in addition to his stated fees, shall be paid, annually, two hundred dollars, as a full compensation for all extra services. There shall also be appointed two marshals, one for each of the said superior courts, who shall each perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, to which marshals in other districts are entitled for similar services; and shall, in addition, be paid the sum of two hundred dollars, annually, as a compensation for all extra services.

SEC. 8. *And be it further enacted*, That the governor, secretary, judges of the superior courts, district attorneys, marshals, and all general officers of the militia, shall be appointed by the President of the United States, by and with the advice and consent of the Senate. All judicial officers shall hold their offices for the term of four years, and no longer. The governor, secretary, judges, members of the legislative council, justices of the peace, and all other officers, civil and of the militia, before they enter upon the duties of their respective offices, shall take an oath or affirmation to support the Constitution of the United States, and for the faithful discharge of the duties of their office; the governor, before the President of the United States, or before a judge of the Supreme or district court of the United States, or before such other person as the President of the United States shall authorize to administer the same; the secre-

tary, judges, and members of the legislative council, before the governor, and all other officers, before such persons as the governor shall direct. The governor shall receive an annual salary of two thousand five hundred dollars; the secretary, of one thousand five hundred dollars; and the judges, of one thousand five hundred dollars, each; to be paid quarter yearly out of the treasury of the United States. The members of the legislative council shall receive three dollars each, per day, during their attendance in council, and three dollars for every twenty miles in going to, and returning from any meeting of the legislative council, once in each session, and no more. The members of the legislative council shall be privileged from arrest, except in cases of treason, felony, and breach of the peace, during their going to, attendance at, and returning from, each session of said council.

Sec. 9. *And be it further enacted,* That the following acts, that is to say:

"An act for the punishment of certain crimes against the United States," approved April thirtieth, one thousand seven hundred and ninety, and all acts in addition or supplementary thereto, which are now in force:

"An act to provide for the punishment of [certain] crimes and offences committed within the Indian boundaries," approved March third, one thousand eight hundred and seventeen:

"An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned," approved April twentieth, one thousand eight hundred and eighteen:

"An act for the punishment of [certain] crimes therein specified," approved January thirtieth, one thousand seven hundred and ninety-nine:

"An act respecting fugitives from justice, and persons escaping from the service of their masters," approved twelfth February, one thousand seven hundred and ninety-three:

"An act to prohibit the carrying on the slave trade from the United States to any foreign place or country," approved March twenty-second, one thousand seven hundred and ninety-nine [four:]

"An act in addition to the act entitled 'An act to prohibit the carrying on the slave trade from the United States to any foreign place or country,'" approved May tenth, one thousand eight hundred:

"The act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight," approved March second, one thousand eight hundred and seven:

"An act to prevent settlements being made on lands ceded to the United States until authorized by law," approved March third, one thousand eight hundred and seven:

"An act in addition to 'An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight, and to repeal certain parts of the same,'" approved April twentieth, one thousand eight hundred and eighteen:

"An act in addition to the acts prohibiting the slave trade," approved March third, one thousand eight hundred and nineteen:

"An act to establish the post-office of the United States:"

"An act further to alter and establish certain post-roads, and for the more secure carriage of the mail of the United States:"

"An act for the more general promulgation of the laws of the United States:"

"An act in addition to an act, entitled 'An act for the more general promulgation of the laws of the United States:'"

"An act to provide for the publication of the laws of the United States, and for other purposes:"

"An act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose:"

"An act to extend the privilege of obtaining patents for useful discoveries and inventions to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patentees:"

"An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the time therein mentioned:"

"The act supplementary thereto, and for extending the benefits thereof to the arts of designing, engraving, and etching, historical, and other prints:"

"An act to prescribe the mode in which the public acts, records, and judicial proceedings, in each State, shall be authenticated, so as to take effect in any other State:"

"An act supplementary to the act, entitled 'An act to prescribe the mode in which the public acts, records, and judicial proceedings, in each State shall be acknowledged, so as to take effect in any other State:"

"An act for establishing trading-houses with the Indian tribes," and the several acts continuing the same:

"An act making provision relative to rations for Indians, and their visits to the seat of government."

And the laws of the United States relating to the revenue and its collection, subject to the modification stipulated by the fifteenth article of the treaty of the twenty-second February, one thousand eight hundred and nine, in favor of Spanish vessels and their cargoes; and all other public laws of the United States, which are not repugnant to the provisions of this act, shall extend to, and have full force and effect in, the territory aforesaid.

Sec. 10. *And be it further enacted*, That, to the end that the inhabitants may be protected in their liberty, property, and the exercise of their religion, no law shall ever be valid which shall impair, or in any way restrain, the freedom of religious opinions, professions, or worship. They shall be entitled to the benefit of the writ of *habeas corpus*. They shall be bailable in all cases, except for capital offences, where the proof is evident or the presumption great. All fines shall be moderate, and proportioned to the offence; and excessive bail shall not be required, nor cruel nor unusual punishments inflicted. No *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed; nor shall private property be taken for public uses without just compensation.

Sec. 11. *And be it further enacted*, That all free male white persons, who are housekeepers, and who shall have resided one year, at least, in the said territory, shall be qualified to act as grand and petit jurors in the courts of the said territory; and they shall, until the legislature thereof shall otherwise direct, be selected in such manner as the judges of the said courts shall respectively prescribe, so as to be most conducive to an impartial trial, and to be least burthensome to the inhabitants of the said territory.

Sec. 12. *And be it further enacted*, That it shall not be lawful for any person or persons to import or bring into the said territory, from any port or place without the limits of the United States, or cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing, any slave or slaves. And every person so offending, and being thereof convicted before any court within the said territory, having competent jurisdiction, shall forfeit and pay, for each and every slave so imported or brought, the sum of three hundred dollars, one moiety for the use of the United States, and the other moiety for the use of the person or persons who shall sue for the same; and every slave so imported or brought shall thereupon become entitled to, and receive, his or her freedom.

Sec. 13. *And be it further enacted*, That the laws in force in the said territory, at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force until altered, modified, or repealed, by the legislature.

Sec. 14. *And be it further enacted*, That the citizens of the said territory shall be entitled to one delegate to Congress, for the said territory, who shall possess the same powers heretofore granted to the delegates from the several territories of the United States. The said delegate shall be elected by such description of persons, at such times, and under snch regulations, as the governor and legislative council may, from time to time, ordain and direct.

Approved, March 30, 1822.

CONSTITUTION OF FLORIDA—1838.

We, the people of the Territory of Florida, by our delegates in convention, assembled at the city of Saint Joseph, on Monday, the 3d day of December, A. D. 1838, *and of the Independence of the United States the sixty-third year, having and claiming the right of admission into the Union as one of the United States of America, consistent with the principles of the Federal Constitution, and by virtue of the treaty of amity, settlement, and limits between the United States of America and the King of Spain, ceding the provinces of East and West Florida to the United States, in order to secure to ourselves and our posterity the enjoyment of all the rights of life, liberty, and property, and the pursuit of happiness, do mutually agree, each with the other, to form ourselves into a free and independent State, by the name of the State of Florida.*

ARTICLE I.

DECLARATION OF RIGHTS.

That the great and essential principles of liberty and free government may be recognized and established, we declare:

SECTION 1. That all freemen, when they form a social compact, are equal, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty; of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness.

SEC. 2. That all political power is inherent in the people, and all free governments are founded on their authority, and established for their benefit; and, therefore, they have at all times an inalienable and indefeasible right to alter or abolish their form of government in such manner as they may deem expedient.

SEC. 3. That all men have a natural and inalienable right to worship Almighty God according to the dictates of their own conscience; and that no preference shall ever be given by law to any religious establishment or mode of worship in this State.

SEC. 4. That all elections shall be free and equal, and that no property qualification for eligibility to office, or for the right of suffrage, shall ever be required in this State.

SEC. 5. That every citizen may freely speak, write, and publish his sentiments, on all subjects, being responsible for the abuse of that liberty; and no law shall ever be passed to curtail, abridge, or restrain the liberty of speech or of the press.

SEC. 6. That the right of trial by jury shall forever remain inviolate.

SEC. 7. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable seizures and searches; and that no warrant to search any place, or to seize any person or thing, shall issue without describing the place to be searched, and the person or thing to be seized, as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 8. That no freeman shall be taken, imprisoned, disseized of his freehold, liberties, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the law of the land.

SEC. 9. That all courts shall be open, and every person, for an injury done him, in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered, without sale, denial, or delay.

SEC. 10. That in all criminal prosecutions the accused hath a right to be heard, by himself or counsel, or both; to demand the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment or presentment, a speedy and public trial by an impartial jury of the county or district where the offence was committed, and shall not be compelled to give evidence against himself.

SEC. 11. That all persons shall be bailable, by sufficient securities, unless in capital offences, where the proof is evident or the presumption strong; and the privilege of *habeas corpus* shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 12. That excessive bail shall in no case be required; nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted.

SEC. 13. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

SEC. 14. That private property shall not be taken or applied to public use unless just compensation be made therefor.

SEC. 15. That in all prosecutions and indictments for libel the truth may be given in evidence; and if it shall appear to the jury that the libel is true, and published with good motives, and for justifiable ends, the truth shall be a justification; and the jury shall be the judges of the law and facts.

SEC. 16. That no person shall be put to answer any criminal charge but by presentment, indictment, or impeachment.

SEC. 17. That no conviction shall work corruption of blood or forfeiture of estate.

SEC. 18. That retrospective laws, punishing acts committed before the existence of such laws, and by them only declared penal or criminal, are oppressive, unjust, and incompatible with liberty; wherefore, no *ex post facto* law shall ever be made.

SEC. 19. That no law impairing the obligation of contracts shall ever be passed.

SEC. 20. That the people have a right, in a peaceable manner, to assemble together to consult for the common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

SEC. 21. That the free white men of this State shall have a right to keep and to bear arms for their common defence.

SEC. 22. That no soldier, in time of peace, shall be quartered in any house, without the consent of the owner; nor in time of war, but in a manner prescribed by law.

SEC. 23. That no standing army shall be kept up without the consent of the legislature; and the military shall in all cases and at all times be in strict subordination to the civil power.

SEC. 24. That perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

SEC. 25. That no hereditary emoluments, privileges, or honors, shall ever be granted or conferred in this State.

SEC. 26. That frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

SEC. 27. That, to guard against transgressions upon the rights of the people, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or to the following provisions, shall be void.

ARTICLE II.

DISTRIBUTION OF THE POWERS OF GOVERNMENT.

SECTION 1. The powers of the government of the State of Florida shall be divided into three distinct departments, and each of them confided to a separate body of magistracy, to wit: Those which are legislative to one; those which are executive to another; and those which are judicial to another.

SEC. 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances expressly provided in this constitution.

ARTICLE III.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power shall be vested in a chief magistrate, who shall be styled the governor of the State of Florida.

SEC. 2. The governor shall be elected for four years, by the qualified electors, at the time and place where they shall vote for representatives, and shall remain in office until a successor be chosen and qualified; and shall not be eligible to reëlection until the expiration of four years thereafter.

SEC. 3. No person shall be eligible to the office of governor unless he shall have attained the age of thirty years, shall have been a citizen of the United States ten years, or an inhabitant of Florida at the time of the adoption of this constitution, (being a citizen of the United States,) and shall have been a resident of Florida at least five years next preceding the day of election.

SEC. 4. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall, during the first week of the session, open and publish them in the presence of both houses of the general assembly; and the person having the highest number of votes shall be governor; but if two or more shall be equal, and highest in votes, one of them shall be chosen governor by the joint vote of the two houses; and contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected.

SEC. 6. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof.

SEC. 7. He may require information, in writing, from the officers of the executive department, on any subject relating to the duties of their respective offices.

SEC. 8. He may, by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place if that shall have become dangerous from an enemy or from disease; and in case of disagreement between the two houses with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next meeting designated by this constitution.

SEC. 9. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. In all criminal and penal cases, (except of treason and impeachment,) after conviction, he shall have power to grant reprieves and pardons, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law; and in cases of treason, he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons; and he may, in the recess of the senate, respite the sentence until the end of the next session of the general assembly.

SEC. 12. There shall be a seal of the State, which shall be kept by the governor, and used by him officially, with such device as the governor first elected may direct; and the present seal of the Territory shall be the seal of the State until otherwise directed by the general assembly.

SEC. 13. All commissions shall be in the name and by the authority of the State of Florida, be sealed with the State seal, and signed by the governor, and attested by the secretary of state.

SEC. 14. There shall be a secretary of state appointed by a joint vote of both houses of the general assembly, who shall continue in office during the term of four years; and he shall keep a fair register of the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the general assembly, and shall perform such other duties as may be required of him by law.

SEC. 15. Vacancies that happen in offices, the appointment to which is vested in the general assembly, or given to the governor, with the advice and consent of the senate, shall be filled by the governor during the recess of the general assembly, by granting commissions, which shall expire at the end of the next session.

SEC. 16. Every bill, which shall have passed both houses of the general assembly, shall be presented to the governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, who shall enter the objections at large upon the journals, and proceed to reconsider it; and if, after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other



house, by which it shall likewise be reconsidered; and if approved by a majority of the whole number elected to that house, it shall become a law. But in such cases the votes of both houses shall be by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house, respectively; and if any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it; unless the general assembly, by their adjournment, prevent its return, in which case it shall not be a law.

SEC. 17. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on questions of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him, or, being disapproved, be repassed by both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 18. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the president of the senate shall exercise all the power and authority appertaining to the office of governor, during the term for which the governor was elected; unless the general assembly shall provide by law for the election of a governor to fill such vacancy, or until the governor absent or impeached shall return or be acquitted.

SEC. 19. If, during the vacancy of the office of governor, the president of the senate shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the speaker of the house of representatives shall, in like manner, administer the government.

SEC. 20. The president of the senate, or speaker of the house of representatives, during the time he administers the government, shall receive the same compensation which the governor would have received.

SEC. 21. The governor shall always reside, during the sessions of the general assembly, at the place where their sessions are held; and, at other times, wherever in their opinion the public good may require.

SEC. 22. No person shall hold the office of governor, and any other office or commission, civil or military, either in this State, or under any State, or the United States, or any other power, at one and the same time, except the president of the senate or the speaker of the house of representatives, when he shall hold the office, as aforesaid.

SEC. 23. A State treasurer, and comptroller of public accounts, shall be elected by joint vote of both houses of the general assembly, at each regular session thereof.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in two distinct branches, the one to be styled the senate, the other the house of representatives, and both together "the general assembly of the State of Florida;" and the style of the laws shall be, "Be it enacted by the senate and house of representatives of the State of Florida in general assembly convened."

SEC. 2. The members of the house of representatives shall be chosen by the qualified voters, and shall serve for the term of one year, from the day of the commencement of the general election, and no longer; and the sessions of the general assembly shall be annual, and commence on the fourth Monday in November in each year, or at such other time as may be prescribed by law.

SEC. 3. The representatives shall be chosen every year, on the first Monday in the month of October, until otherwise directed by law.

SEC. 4. No person shall be a representative unless he be a white man, a citizen of the United States, and shall have been an inhabitant of the State two years next preceding his election, and the last year thereof a resident of the county for which he shall be chosen, and shall have attained the age of twenty-one years.

SEC. 5. The senators shall be chosen by the qualified electors, for the term of two years, at the same time, in the same manner, and in the same places where they vote for members of the house of representatives; and no man shall be a senator unless



he be a white man, a citizen of the United States, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a resident of the district or county for which he shall be chosen, and shall have attained the age of twenty-five years.

SEC. 6. The senators, after their first election, shall be divided by lot into two classes; and the seats of the senators of the first class shall be vacated at the expiration of the first year, and of the second class at the expiration of the second year; so that one-half thereof, as near as possible, may be chosen forever thereafter, annually, for the term of two years.

SEC. 7. The house of representatives, when assembled, shall choose a speaker, and its other officers; and the senate a president, and its other officers; and each house shall be judge of the qualifications, elections, and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

SEC. 8. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house may prescribe.

SEC. 9. Each house may determine the rules of its own proceedings, punish its members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same cause.

SEC. 10. Each house, during the session, may punish, by imprisonment, any person not a member for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings, provided such imprisonment shall not extend beyond the end of the session.

SEC. 11. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment; and the yeas and nays of the members of each house shall be taken and entered upon the journals, upon the final passage of every bill, and may, by any two members, be required upon any other question; and any member of either house shall have liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journal.

SEC. 12. Senators and representatives shall in all cases, except treason, felony, or breach of peace, be privileged from arrest during the session of the general assembly, and in going to or returning from the same, allowing one day for every twenty miles such member may reside from the place at which the general assembly is convened; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 13. The general assembly shall make provision by law for filling vacancies that may occur in either house, by the death, resignation, or otherwise, of any of its members.

SEC. 14. The doors of each house shall be open, except on such occasions as, in the opinion of the house, the public safety may imperiously require secrecy.

SEC. 15. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 16. Bills may originate in either house of the general assembly, and all bills passed by one house may be discussed, amended, or rejected by the other; but no bill shall have the force of law until, on three several days, it be read in each house, and free discussion be allowed thereon, unless in cases of urgency four-fifths of the house in which the same shall be depending may deem it expedient to dispense with the rule; and every bill having passed both houses shall be signed by the speaker and president of their respective houses.

SEC. 17. Each member of the general assembly shall receive from the public treasury such compensation for his services as may be fixed by law; but no increase of compensation shall take effect during the term for which the representatives were elected when such law passed.

SEC. 18. The number of members of the house of representatives shall never exceed sixty.

ARTICLE V.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State, both as to matters of law and equity, shall be vested in a supreme court, courts of chancery, circuit courts, and justices of the peace: *Provided*, The general assembly may also vest such criminal jurisdiction as may be deemed necessary in corporation courts; but such jurisdiction shall not extend to capital offences.

SEC. 2. The supreme court, except in cases otherwise directed in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may from time to time be prescribed by law: *Provided*, That the said courts shall always have power to issue writs of injunction, *mandamus*, *quo warranto*, *habeas corpus*, and such other remedial and original writs as may be necessary to give it a general superintendence and control of all other courts.

SEC. 3. For the term of five years from the election of the judges of the circuit courts, and thereafter until the general assembly shall otherwise provide, the powers of the supreme court shall be vested in, and its duties performed by, the judges of the several circuit courts within this State; and they, or a majority of them, shall hold such sessions of the supreme court, and at such times, as may be directed by law.

SEC. 4. The supreme court, when organized, shall be holden at such times and places as may be provided by law.

SEC. 5. The State shall be divided into at least four convenient circuits, and until other circuits shall be provided for by the general assembly, the arrangement of the circuits shall be the western, middle, eastern, and southern circuits; and for each circuit there shall be appointed a judge, who shall, after his appointment, reside in the circuit for which he has been appointed, and shall, at stated times, receive for his services a salary of not less than two thousand dollars per annum, which shall not be diminished during the continuance of such judge in office; but the judges shall receive no fees or perquisites of office, nor hold any other office of profit under the State, the United States, or any other power.

SEC. 6. The circuit court shall have original jurisdiction in all matters, civil and criminal, within this State, not otherwise excepted in this constitution.

SEC. 7. A circuit court shall be held in such counties, and at such times and places therein, as may be prescribed by law; and the judges of the several circuit courts may hold courts for each other, and shall do so when directed by law.

SEC. 8. The general assembly shall have power to establish and organize a separate court or courts of original equity jurisdiction; but, until such court or courts shall be established and organized, the circuit courts shall exercise such jurisdiction.

SEC. 9. The general assembly shall provide by law for the appointment, in each county, of an officer to take probate of wills, to grant letters testamentary, of administration, and guardianship; to attend to the settlement of the estates of decedents and of minors, and to discharge the duties usually pertaining to courts of ordinary, subject to the direction and supervision of the courts of chancery, as may be provided by law.

SEC. 10. A competent number of justices of the peace shall be, from time to time, appointed or elected, in and for each county, in such mode and for such term of office as the general assembly may direct, and shall possess such jurisdiction as may be prescribed by law; and, in cases tried before a justice of the peace, the right of appeal shall be secured, under such rules and regulations as may be prescribed by law.

SEC. 11. Justices of the supreme court, chancellors, and judges of the circuit courts shall be elected by the concurrent vote of a majority of both houses of the general assembly.

SEC. 12. The judges of the circuit courts shall, at the first session of the general assembly to be holden under this constitution, be elected for the term of five years, and shall hold their offices for that term, unless sooner removed under the provisions made in this constitution for the removal of judges by address or impeachment; and at the expiration of five years, the justices of the supreme court and the judges of



the circuit courts shall be elected for the term of and during their good behavior; and for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of two-thirds of each house of the general assembly: *Provided, however,* That the cause or causes shall be stated at length in such address, and entered on the journals of each house: *And provided further,* That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defence before any vote for such address shall pass; and in such cases the vote shall be taken by yeas and nays, and entered on the journals of each house respectively.

SEC. 13. The clerk of the supreme court and the clerks of the courts of chancery shall be elected by the general assembly; and the clerks of the circuit courts shall be elected by the qualified electors, in such mode as may be prescribed by law.

SEC. 14. The justices of the supreme court, chancellors, and judges of the circuit courts, shall, by virtue of their offices, be conservators of the peace throughout the State, and justices of the peace in their respective counties.

SEC. 15. The style of all process shall be, "The State of Florida;" and all criminal prosecutions shall be carried on in the name of the State of Florida, and all indictments shall conclude, "against the peace and dignity of the same."

SEC. 16. There shall be an attorney-general for the State, who shall reside at the seat of government. It shall be his duty to attend all sessions of the general assembly, and, upon the passage of any act, to draft, and submit to the general assembly, at the same session, all necessary forms of proceedings under such laws, which, when approved, shall be published therewith; and he shall perform such other duties as may be prescribed by law. He shall be elected by joint vote of the two houses of the general assembly, and shall hold his office for four years; but may be removed by the governor, on the address of two-thirds of the two houses of general assembly; and shall receive for his services a compensation to be fixed by law.

SEC. 17. There shall be one solicitor for each circuit, who shall reside therein, to be elected by the joint vote of the general assembly, who shall hold his office for the term of four years, and shall receive for his services a compensation to be fixed by law.

SEC. 18. No justice of the supreme court shall sit as judge, or take part in the appellate court, on the trial or hearing of any case which shall have been decided by him in the court below.

SEC. 19. The general assembly shall have power to establish in each county a board of commissioners for the regulation of the county business therein.

SEC. 20. No duty not judicial shall be imposed by law upon the justices of the supreme court, chancellors, or the judges of the circuit courts of this State.

ARTICLE VI.

THE RIGHT OF SUFFRAGE—CIVIL OFFICERS.

SECTION 1. Every free white male person of the age of twenty-one years and upwards, and who shall be, at the time of offering to vote, a citizen of the United States, and who shall have resided and had his habitation, domicile, home, and place of permanent abode in Florida, for two years next preceding the election at which he shall offer to vote, and who shall have at such time, and for six months immediately preceding said time shall have had, his habitation, domicile, home, and place of permanent abode in the county in which he may offer to vote, and who shall be enrolled in the militia thereof, (unless by law exempted from serving in the militia,) shall be deemed a qualified elector, at all elections under this constitution, and none others except in elections by general ticket in the State or district prescribed by law; in which cases the elector must have been a resident of the State two years next preceding the election, and six months within the election district in which he offers to vote: *Provided,* That no soldier, seaman, or marine, in the regular Army or Navy of the United States, unless he be a qualified elector of the State previous to his enlistment as such soldier, seaman, or marine, in the regular Army or Navy of the United States, or of the revenue service, shall be considered a resident of the State, in consequence of being stationed within the same.

SEC. 2. The general assembly shall, at its first session, provide for the registration of all the qualified electors in each county; and thereafter, from time to time, of all who may become such qualified electors.

SEC. 3. No president, director, cashier, or other officer, of any banking company in this State, shall be eligible to the office of governor, senator, or representative to the general assembly of this State, so long as he shall be such president, director, cashier, or other officer, nor until the lapse of twelve months from the time at which he shall have ceased to be such president, director, cashier, or other officer.

SEC. 4. The general assembly shall have power to exclude from every office of honor, trust, or profit, within the State, and from the right of suffrage, all persons convicted of bribery, perjury, or other infamous crime.

SEC. 5. No person shall be capable of holding or of being elected to any post of honor, profit, trust, or emolument, civil or military, legislative, executive, or judicial, under the government of this State, who shall hereafter fight a duel, or send or accept a challenge to fight a duel, the probable issue of which may be the death of the challenger or challenged, or who shall be a second to either party, or who shall in any manner aid or assist in such duel, or shall be knowingly the bearer of such challenge or acceptance, whether the same occur or be committed in or out of the State.

SEC. 6. No person who may hereafter be a collector or holder of public moneys shall have a seat in either house of the general assembly, or be eligible to any office of trust or profit under this State, until he shall have accounted for, and paid into the treasury, all sums for which he may be accountable.

SEC. 7. No governor, member of Congress, or of the general assembly of this State, shall receive a fee, be engaged as counsel, agent, or attorney, in any civil case or claim against this State, or to which this State shall be a party, during the time he shall remain in office.

SEC. 8. No governor, justice of the supreme court, chancellor, or judge, in this State, shall be eligible to election or appointment to any other and different station, or office, or post of honor or emolument, under this State, or to the station of Senator or Representative in the Congress of the United States from this State, until one year after he shall have ceased to be such governor, justice, chancellor, or judge.

SEC. 9. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people.

SEC. 10. No minister of the gospel shall be eligible to the office of governor, senator, or member of the house of representatives of this State.

SEC. 11. Members of the general assembly, and all officers, civil and military, before they enter upon the execution of their respective offices, shall take the following oath or affirmation: "I, ——— ———, do swear (or affirm) that I am duly qualified, according to the constitution of this State, to exercise the office to which I have been elected, (or appointed,) and will, to the best of my abilities, discharge the duties thereof, and preserve, protect, and defend the constitution of this State, and of the United States."

SEC. 12. Every person shall be disqualified from serving as governor, senator, representative, or from holding any other office of honor or profit in this State, for the term for which he shall have been elected, who shall have been convicted of having given or offered any bribe to procure his election.

SEC. 13. Laws shall be made by the general assembly to exclude from office, and from suffrage, those who shall have been, or may thereafter be, convicted of bribery, perjury, forgery, or other high crime or misdemeanor; and the privilege of suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practices.

SEC. 14. All civil officers of the State at large shall reside within the State, and all district or county officers within their respective districts or counties, and shall keep their respective offices at such places therein as may be required by law.

SEC. 15. It shall be the duty of the general assembly to regulate by law in what cases and what deduction from the salaries of public officers shall be made for neglect of duty in their official capacity.

SEC. 16. Returns of elections for members of Congress and the general assembly shall be made to the secretary of state, in manner to be prescribed by law.

SEC. 17. In all elections by the general assembly, the vote shall be *viva voce;* and in all elections by the people the vote shall be by ballot.

SEC. 18. No member of Congress, or person holding or exercising any office of profit under the United States, or under any foreign power, shall be eligible as a member of the general assembly of this State, or hold or exercise any office of profit under the State; and no person in this State shall ever hold two offices of profit at the same time, except the office of justice of the peace, notary public, constable, and militia offices.

SEC. 19. The general assembly shall by law provide for the appointment or election, and the removal from office, of all officers, civil and military, in this State, not provided for in this constitution.

SEC. 20. The power of impeachment shall be vested in the house of representatives.

SEC. 21. All impeachments shall be tried by the senate; and, when sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 22. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office; but judgment, in such cases, shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the parties shall, nevertheless, be liable to indictment, trial, and punishment according to law.

ARTICLE VII.

MILITIA.

SECTION 1. All militia officers shall be elected by the persons subject to military duty within the bounds of their several companies, battalions, regiments, brigades, and divisions, under such rules and regulations as the general assembly may, from time to time, direct and establish.

SEC. 2. The governor shall appoint all the officers of the executive staff, except the adjutant-general and paymaster-general, who shall be appointed by the governor, by and with the advice and consent of the senate. The major-generals and brigadier-generals, and commanding officers of regiments, shall appoint such staff officers as may be prescribed by law: *Provided,* No person shall be eligible to any staff appointment unless he hold a commission in the line.

ARTICLE VIII.

TAXATION AND REVENUE.

SECTION 1. The general assembly shall devise and adopt a system of revenue, having regard to an equal and uniform mode of taxation, to be general throughout the State.

SEC. 2. No other or greater amount of tax or revenue shall at any time be levied than may be required for the necessary expenses of government.

SEC. 3. No money shall be drawn from the treasury but in consequence of an appropriation by law; and a regular statement of the receipts and the expenditures of all public moneys shall be published and promulgated annually with the laws of the general assembly.

SEC. 4. The general assembly shall have power to authorize the several counties and incorporated towns in this State to impose taxes for county and corporation purposes respectively; and all property shall be taxed upon the principles established in regard to State taxation.



ARTICLE IX.

CENSUS AND APPORTIONMENT OF REPRESENTATION.

SECTION 1. The general assembly shall, in the year 1845, and every tenth year thereafter, cause an enumeration to be made of all the inhabitants of the State, and to the whole number of free white inhabitants shall be added three-fifths of the number of slaves; and they shall then proceed to apportion the representation equally among the different counties, according to such enumeration, giving, however, one representative to every county, and increasing the number of representatives, on a uniform ratio of population, according to the foregoing basis; and which ratio shall not be changed until a new census shall have been taken.

SEC. 2. The general assembly shall also, after every such enumeration, proceed to fix by law the number of senators which shall constitute the senate of the State of Florida, and which shall never be less than one-fourth nor more than one-half of the whole number of the house of representatives; and they shall lay off the State into the same number of senatorial districts, as nearly equal in the number of inhabitants as may be, according to the ratio of representation established in the preceding section; each of which districts shall be entitled to one senator.

SEC. 3. When any senatorial district shall be composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district, and no county shall be divided in forming a district.

SEC. 4. No new county shall be entitled to separate representation until its population equal the ratio of representation then existing; nor shall any county be reduced in population, by division, below the existing ratio.

SEC. 5. Until the apportionment of representation by the general assembly, as directed in the foregoing section, the several counties shall be entitled to the following representatives, viz: Escambia, three; Walton, one; Washington, one; Jackson, three; Franklin, two; Calhoun, two; Gadsden, four; Leon, six; Jefferson, three; Madison, one; Hamilton, one; Columbia, two; Alachua, two; Duval, two; Nassau, one; Saint John's, three; Mosquito, one; Dade, one; Monroe, one; Hillsborough, one; and, until the apportionment of senators under the census as aforesaid, there shall be sixteen senatorial districts in this State, which shall be as follows:

The county of Escambia shall compose the first district.
The counties of Walton and Washington shall compose the second district.
The county of Jackson shall compose the third district.
The county of Calhoun shall compose the fourth district.
The county of Franklin shall compose the fifth district.
The county of Gadsden shall compose the sixth district.
The county of Leon shall compose the seventh district.
The county of Jefferson shall compose the eighth district.
The county of Madison shall compose the ninth district.
The county of Hamilton shall compose the tenth district.
The county of Columbia shall compose the eleventh district.
The county of Alachua shall compose the twelfth district.
The county of Duval shall compose the thirteenth district.
The county of Nassau shall compose the fourteenth district.
The counties of Saint John's and Mosquito shall compose the fifteenth district.
The counties of Dade, Monroe, and Hillsborough shall compose the sixteenth district.

And each senatorial district shall elect one senator, and the seventh district shall be entitled to two.

ARTICLE X.

EDUCATION.

SECTION 1. The proceeds of all lands that have been, or may hereafter be, granted by the United States for the use of schools and a seminary or seminaries of learning,

shall be and remain a perpetual fund, the interest of which, together with all moneys derived from any other source applicable to the same object, shall be inviolably appropriated to the use of schools and seminaries of learning, respectively, and to no other purpose.

SEC. 2. The general assembly shall take such measures as may be necessary to preserve from waste or damage all land so granted and appropriated to the purposes of education.

ARTICLE XI.

PUBLIC DOMAIN AND INTERNAL IMPROVEMENTS.

SECTION 1. It shall be the duty of the general assembly to provide for the prevention of waste and damage of the public lands now possessed, or that may hereafter be ceded to the Territory or State of Florida; and it may pass laws for the sale of any part or portion thereof, and, in such case, provide for the safety, security, and appropriation of the proceeds.

SEC. 2. A liberal system of internal improvements, being essential to the development of the resources of the country, shall be encouraged by the government of this State; and it shall be the duty of the general assembly, as soon as practicable, to ascertain, by law, proper objects of improvement, in relation to roads, canals, and navigable streams, and to provide for a suitable application such funds as may be appropriated for such improvements.

ARTICLE XII.

BOUNDARIES.

SECTION 1. The jurisdiction of the State of Florida shall extend over the Territories of East and West Florida, which, by the treaty of amity, settlement, and limits, between the United States and His Catholic Majesty, on the 22d day of February, A. D. 1819, were ceded to the United States.

ARTICLE XIII.

BANKS AND OTHER CORPORATIONS.

SECTION 1. The general assembly shall pass a general law for the incorporation of all such churches, and religious or other societies, as may accept thereof; but no special act of incorporation thereof shall be passed.

SEC. 2. The general assembly shall pass no act of incorporation, or make any alteration therein, unless with the assent of at least two-thirds of each house, and unless public notice in one or more newspapers in the State shall have been given for at least three months immediately preceding the session at which the same may be applied for.

SEC. 3. No banking corporation shall be created, or continue, which is composed of a less number than twenty individuals, a majority of whom, at least, shall be residents of the State; and no other corporation shall be created, or continue, composed of a less number than ten, of whom at least five shall be residents of this State.

SEC. 4. No bank-charter, or any act of incorporation granting exclusive privileges, shall be granted for a longer period than twenty years; and no bank-charter shall ever be extended or renewed.

SEC. 5. The charters of banks granted by the general assembly shall restrict such banks to the business of exchange, discount, and deposit; and they shall not speculate or deal in real estate, or the stock of other corporations or associations, or in merchandise or chattels, or be concerned in insurance, manufacturing, exportation, or importation, except of bullion or specie; shall not act as trustee in any wise, nor shall they own real estate or chattels, except such as shall be necessary for their actual use in the transaction of business, or which may be pledged as further security, or received towards or in satisfaction of previously-contracted debts, or purchased at legal sales to satisfy such debts; of which they shall be required to make sale within two years after the acquisition thereof.



SEC. 6. The capital stock of any bank shall not be less than one hundred thousand dollars, and shall be created only by the actual payment of specie therein; and no bank shall borrow money to create or add to its capital or to conduct its business, and no loans shall be made on stock.

SEC. 7. All liabilities of such banks shall be payable in specie, and the aggregate of the liabilities and issues of a bank shall at no time exceed double the amount of its capital stock paid in.

SEC. 8. No bank shall make a note or security of any kind for a smaller sum than five dollars; and the general assembly may increase such restriction to twenty dollars.

SEC. 9. No dividends of profits exceeding ten per centum per annum on the capital stock paid in shall be made; but all profits over ten per centum per annum shall be set apart and retained as a safety fund.

SEC. 10. Stockholders in a bank, when an act of forfeiture of its charter is committed, or when it is dissolved or expires, shall be individually and severally liable for the payment of all its debts, in proportion to the stock owned by each.

SEC. 11. Banks shall be open to inspection, under such regulations as may be prescribed by law; and it shall be the duty of the governor to appoint a person or persons, not connected in any manner with any bank in the State, to examine at least once a year into their state and condition; and the officers of every bank shall make quarterly returns to the governor of its state and condition, and the names of the stockholders, and shares held by each.

SEC. 12. Non-user for the space of one year, or any act of a corporation, or those having the control and management thereof, or intrusted therewith, inconsistent with or in violation of the provisions of this constitution, or of its charter, shall cause its forfeiture; and the general assembly shall, by general law, provide a summary process for the sequestration of its effects and assets, the appointment of officers to settle its affairs; and no forfeited charter shall be restored. The foregoing provisions shall not be construed to prevent the general assembly from imposing other restrictions and provisions in the creation of corporations.

SEC. 13. The general assembly shall not pledge the faith and credit of the State to raise funds in aid of any corporation whatsoever.

SEC. 14. The general assembly shall, at its first session, have power to regulate, restrain, and control all associations claiming to exercise corporate privileges in the State, so as to guard, protect, and secure the interests of the people of the State, not violating vested rights or impairing the obligation of contracts.

ARTICLE XIV.

AMENDMENTS AND REVISION OF THE CONSTITUTION.

SECTION 1. No convention of the people shall be called unless by the concurrence of two-thirds of each house of the general assembly.

SEC. 2. No part of this constitution shall be altered unless a bill to alter the same shall have been read three times in the house of representatives and three times in the senate, and agreed to by two-thirds of each house of the general assembly; neither shall any alteration take place until the bill so agreed to be published six months previous to a new election for members to the house of representatives; and if the alteration proposed by the general assembly shall be agreed to, at their first session, by two-thirds of each house of the general assembly, after the same shall have been read three times on three several days in each house, then, and not otherwise, the same shall become a part of the constitution.

ARTICLE XV.

THE SEAT OF GOVERNMENT.

SECTION 1. The seat of government of the State of Florida shall be and remain permanent at the city of Tallahassee, for the term and time of five years from and after the end of the first session of the general assembly to be holden under this constitu-

tion; and, after the expiration of the said five years, the general assembly shall have power to remove the seat of government from Tallahassee, and fix the same at any other point: *Provided*, That the general assembly shall, immediately after the expiration of ten years from the end of the said first session thereof, fix permanently the seat of government.

ARTICLE XVI.

GENERAL PROVISIONS.

SECTION 1. The general assembly shall have no power to pass laws for the emancipation of slaves.

SEC. 2. They shall have no power to prevent emigrants to this State from bringing with them such persons as may be deemed slaves by the laws of any one of the United States: *Provided*, They shall have power to enact laws to prevent the introduction of any slaves who may have committed crimes in other States.

SEC. 3. The general assembly shall have power to pass laws to prevent free negroes, mulattoes, and other persons of color, from immigrating to this State, or from being discharged from on board any vessel in any of the ports of Florida.

SEC. 4. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his confession in open court.

SEC. 5. Divorces from the bonds of matrimony shall not be allowed but by the judgment of a court, as shall be prescribed by law.

SEC. 6. The general assembly shall declare by law what parts of the common law and what parts of the civil law, not inconsistent with this constitution, shall be in force in this State.

SEC. 7. The oaths of officers, directed to be taken under this constitution, may be administered by any judge or justice of the peace of the Territory or State of Florida, until otherwise prescribed by law.

ARTICLE XVII.

SCHEDULE AND ORDINANCE.

In order that no inconvenience may arise from the organization and establishment of the State government, it is declared:

SECTION 1. That all laws or parts of laws now in force, or which may be hereafter passed by the governor and legislative council of the Territory of Florida, not repugnant to the provisions of this constitution, shall continue in force until, by operation of their provisions or limitations, the same shall cease to be in force, or until the general assembly of this State shall alter or repeal the same; and all writs, actions, prosecutions, judgments, and contracts shall be and continue unimpaired; and all process which has heretofore issued, or which may be issued prior to the last day of the first session of the general assembly of this State, shall be as valid as if issued in the name of the State; and nothing in this constitution shall impair the obligation of contracts, or violate vested rights, either of individuals, or of associations claiming to exercise corporate privileges in this State.

SEC. 2. All fines, penalties, forfeitures, obligations, and escheats accruing to the Territory of Florida shall accrue to the use of the State of Florida.

SEC. 3. All recognizances heretofore taken, or which may be taken before the organization of the judicial department under this constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the State; and all bonds executed to the governor of the Territory of Florida or to any other officer, in his official capacity, shall pass over to the governor or other proper State authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all criminal prosecutions and penal actions which have arisen, or which may arise before the organization of the judicial department under this consti-

tion, and which shall then be depending, may be prosecuted to judgment and execution in the name of the State.

SEC. 4. All officers, civil and military, now holding their offices and appointments in the Territory under the authority of the United States, or under the authority of the Territory, shall continue to hold and exercise their respective offices and appointments until superseded under this constitution; and all actions at law or suits in chancery, or any proceeding pending, or which may be pending, in any court of the Territory of Florida, may be commenced in or transferred to such court of the State as may have jurisdiction of the subject-matter thereof.

SEC. 5. This constitution shall be submitted to the people for ratification at the election for delegate on the first Monday of May next. Each qualified voter shall express his assent or dissent to the constitution by directing the managers of said election to write opposite to his name on the poll-book either the word "*Constitution*" or "*No constitution.*" And in case the time of election for delegate be changed to any other day than the first Monday of May next, then the judges or clerks of the county courts respectively shall appoint managers to hold an election on the said first Monday of May, for ratification of the constitution; and said managers shall conduct said election in the manner provided by the laws of the Territory respecting elections, and make return of the result of such vote forthwith, by depositing the original poll-book in the clerk's office of their counties, respectively, and by transmitting a certificate of the result to the president of the convention, who shall forthwith make proclamation of the same; and in case the constitution be ratified by the people, and immediately after official information shall have been received that Congress have approved the constitution, and provided for the admission of Florida, the president of this convention shall issue writs of election to the proper officers, in the different counties, enjoining them to cause an election to be held for governor, Representative in Congress, and members of the general assembly in each of their respective counties. The election shall be held on the first Monday after the lapse of sixty days following the day of the date of the President's proclamation, and shall take place on the same day throughout the State. The said election shall be conducted according to the then existing election laws of the Territory of Florida: *Provided, however,* That in case of the absence or disability of the president of the convention to cause the said election to be carried into effect, the secretary of this convention shall discharge the duties hereby imposed upon the president; and, in case of the absence or disability of the secretary, a committee consisting of five, to wit, Leigh Read, George T. Ward, James D. Westcott, jr., Thomas Brown, and Leslie A. Thompson, or a majority of them, shall discharge the duties herein imposed on the secretary of the convention; and the members of the general assembly so elected shall assemble on the fourth Monday thereafter at the seat of government. The governor, Representative in Congress, and members of the general assembly shall enter upon the duties of their respective offices immediately after their election under the provisions of this constitution, and shall continue in office in the same manner, and during the same period, they would have done had they been elected on the first Monday in October.

SEC. 6. The general assembly shall have power, by the votes of two-thirds of both houses, to accede to such propositions as may be made by the Congress of the United States upon the admission of the State of Florida into the national confederacy and Union, if they shall be deemed reasonable and just, and to make declaration of such assent by law; and such declaration, when made, shall be binding upon the people and the State of Florida as a compact; and the governor of the State of Florida shall notify the President of the United States of the acts of the general assembly relating thereto; and in case of declining to accede to such propositions, or any part thereof, the general assembly shall instruct the Senators and Representatives of the State of Florida in Congress to procure such modification or alteration thereof as may be deemed reasonable and just, and assent thereto, subject to the ratification of the general assembly by law as aforesaid.

SEC. 7. The courts of this State shall never entertain jurisdiction of any grants of land in the Floridas made by the King of Spain, or by his authority, subsequent to the twenty-fourth day of January, eighteen hundred and eighteen; nor shall the said

courts receive as evidence, in any case, certain grants said to have been made by the said King of Spain in favor of the Duke of Alagon, the Count Punon Rostro, and Don Pedro de Vargas, or any title derived from either of said grants, unless with the express assent of the Congress of the United States.

Done in convention, held in pursuance of an act of the governor and legislative council of the Territory of Florida, entitled "An act to call a convention for the purpose of organizing a State government," passed 30th day of January, 1838, and approved 2d February, eighteen hundred and thirty-eight.

ROBERT RAYMOND REID,
President of the Convention.

JOSHUA KNOWLES, *Secretary.*

THE ENABLING ACT FOR THE STATE OF FLORIDA—1845.

[SEVENTEENTH CONGRESS, FIRST SESSION.]

An Act for the admission of the States of Iowa and Florida into the Union.

Whereas, the people of the Territory of Iowa did, on the seventh day of October, eighteen hundred and forty-four, by a convention of delegates called and assembled for that purpose, form for themselves a constitution and State government; and whereas, the people of the Territory of Florida did, in like manner, by their delegates, on the eleventh day of January, eighteen hundred and thirty-nine, form for themselves a constitution and State government, both of which said constitutions are republican; and said conventions having asked the admission of their respective Territories into the Union as States, on equal footing with the original States:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the States of Iowa and Florida be, and the same are hereby, declared to be States of the United States of America, and are hereby admitted into the Union on equal footing with the original States in all respects, whatsoever.

SEC. 2. *And be it further enacted,* That the following shall be the boundaries of the said State of Iowa, to wit: Beginning at the mouth of the Des Moines river, at the middle of the Mississippi, thence by the middle of the channel of that river to a parallel of latitude passing through the mouth of the Mankato, or Blue-Earth river; thence west, along the said parallel of latitude, to a point where it is intersected by a meridian line, seventeen degrees and thirty minutes west of the meridian of Washington city; thence due south to the northern boundary line of the State of Missouri; thence eastwardly following that boundary to the point at which the same intersects the Des Moines river, thence by the middle of the channel of that river to the place of beginning.

SEC. 3. *And be it further enacted,* That the said State of Iowa shall have concurrent jurisdiction on the river Mississippi, and every other river bordering on the said State of Iowa, so far as the said rivers shall form a common boundary to said State, and any other State or States now or hereafter to be formed or bounded by the same: Such rivers to be common to both: And that the said river Mississippi, and the navigable waters leading into the same, shall be common highways, and forever free as well to the inhabitants of said State, as to all other citizens of the United States, without any tax, duty, impost, or toll therefor, imposed by the said State of Iowa.

SEC. 4. *And be it further enacted,* That it is made and declared to be a fundamental condition of the admission of said State of Iowa into the Union, that so much of this act as relates to the said State of Iowa shall be assented to by a majority of the qualified electors at their township elections, in the manner and at the time prescribed in the sixth section of the thirteenth article of the constitution adopted at Iowa city the first day of November, anno Domini eighteen hundred and forty-four, or by the legislature

of said State. And as soon as such assent shall be given, the President of the United States shall announce the same by proclamation; and therefrom, and without further proceedings on the part of Congress, the admission of the said State of Iowa into the Union, on an equal footing in all respects whatever with the original States, shall be considered as complete.

SEC. 5. *And be it further enacted*, That said State of Florida shall embrace the territories of East and West Florida, which, by the treaty of amity, settlement and limits between the United States and Spain, on the twenty-second day of February, eighteen hundred and nineteen, were ceded to the United States.

SEC. 6. *And be it further enacted*, That until the next census and apportionment shall be made, each of said States of Iowa and Florida shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 7. *And be it further enacted*, That said States of Iowa and Florida are admitted into the Union on the express condition that they shall never interfere with the primary disposal of the public lands lying within them, nor levy any tax on the same whilst remaining the property of the United States: *Provided*, That the ordinance of the convention that formed the constitution of Iowa, and which is appended to the said constitution, shall not be deemed or taken to have any effect or validity, or to be recognized as in any manner obligatory upon the Government of the United States.

APPROVED, March 3, 1845.

CONSTITUTION OF FLORIDA—1861.

[A State convention, which met at Tallahassee, passed an ordinance of secession January 10, 1861,* and amended the constitution by inserting the words "Confederate States" in place of "United States," with a few other unimportant changes. Other amendments were adopted at called sessions of the convention, held in February, 1861; April, 1861; and January, 1862; but they were not submitted to the people.]

CONSTITUTION OF FLORIDA—1865.†

We, the people of the State of Florida, by our delegates in convention assembled, in the city of Tallahassee, on the 25th day of October, in the year of our Lord 1865, *and of the Independence of the United States the ninetieth year, in order to secure to ourselves and our posterity the enjoyment of all the rights of life, liberty, and property, and the pursuit of happiness, do mutually agree, each with the other, to form the following constitution and form of government in and for the said State:*

ARTICLE I.

DECLARATION OF RIGHTS.

That the great and essential principles of liberty and free government may be recognized and established, we declare:

SECTION 1. That all freemen, when they form a government, have certain inherent and indefeasible rights, among which are those of enjoying and defending life and

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* This ordinance was repealed at a State convention held at Tallahassee October 28, 1865.

† This constitution was adopted at a convention which met at Tallahassee October 25, 1865, and completed its labors November 7, 1865. It was not submitted to the people for ratification.

liberty; of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness.

SEC. 2. That all political power is inherent in the people, and all free governments are founded on their authority, and established for their benefit; and therefore they have at all times an inalienable and indefeasible right to alter or abolish their form of government in such manner as they may deem expedient.

SEC. 3. That all men have a natural and inalienable right to worship Almighty God according to the dictates of their own conscience, and that no preference shall ever be given by law to any religious establishment or mode of worship in this State.

SEC. 4. That no property qualification for eligibility to office, or for the right of suffrage, shall ever be required in this State.

SEC. 5. That every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty; and no law shall be passed to curtail, abridge, or restrain the liberty of speech or of the press.

SEC. 6. That the right of trial by jury shall forever remain inviolate.

SEC. 7. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures and searches; and that no warrant to search any place, or to seize any person or thing, shall issue without describing the place to be searched, and the person or thing to be seized, as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 8. That no freeman shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the law of the land.

SEC. 9. That courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law; and right and justice administered without sale, denial, or delay.

SEC. 10. That in all criminal prosecutions, the accused hath a right to be heard by himself or counsel, or both; to demand the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment or presentment, a speedy and public trial by an impartial jury of the county or district where the offence was committed; and shall not be compelled to give evidence against himself.

SEC. 11. That all persons shall be bailable by sufficient securities, unless in capital offences, where the proof is evident, or the presumption is strong; and the *habeas-corpus* act shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 12. That excessive bail shall in no case be required; nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted.

SEC. 13. That no person shall, for the same offence, be twice put in jeopardy of life and limb.

SEC. 14. That private property shall not be taken or applied to public use, unless just compensation be first made therefor.

SEC. 15. That in all prosecutions and indictments for libel, the truth may be given in evidence; and if it shall appear to the jury that the libel is true, and published with good motives, and for justifiable ends, the truth shall be a justification; and the jury shall be the judges of the law and facts.

SEC. 16. That no person shall be put to answer any criminal charge, but by presentment, indictment, or impeachment, except in such cases as the legislature shall otherwise provide; but the legislature shall pass no law whereby any person shall be required to answer any criminal charge involving the life of the accused, except upon indictment or presentment by a grand jury.

SEC. 17. That no conviction shall work corruption of blood or forfeiture of estate.

SEC. 18. That retrospective laws punishing acts committed before the existence of such laws, and by them only declared penal or criminal, are oppressive, unjust, and incompatible with liberty; wherefore no *ex post facto* law shall ever be made.

SEC. 19. That no law impairing the obligation of contracts shall be passed.

SEC. 20. That the people shall have a right, in a peaceable manner, to assemble together to consult for the common good, and to apply to those invested with the

powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

SEC. 21. That no soldier, in time of peace, shall be quartered in any house without the consent of the owner; nor in time of war but in a manner prescribed by law.

SEC. 22. That no standing army shall be kept up without the consent of the legislature; and the military shall be in strict subordination to the civil power.

SEC. 23. That perpetuities and monopolies are contrary to the genius of a free people, and ought not to be allowed.

SEC. 24. That no hereditary emoluments, privileges, or honors shall be granted or conferred in this State.

SEC. 25. That a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

SEC. 26. That, to guard against transgressions upon the rights of the people, we deelare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and all laws contrary thereto, or to the following provisions, shall be void.

ARTICLE II.

DISTRIBUTION OF THE POWERS OF GOVERNMENT.

SECTION 1. The powers of the government of the State of Florida shall be divided into three distinct departments, and each of them confided to a separate body of magistracy, to wit, those which are legislative to one, those which are executive to another, and those which are judicial to another.

SEC. 2. No person, or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except in the instance expressly provided in this constitution.

ARTICLE III.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power shall be vested in a chief magistrate, who shall be styled the governor of the State of Florida.

SEC. 2. The governor shall be elected for four years, by the qualified electors, at the time and place they shall vote for representatives, and shall remain in office until a successor shall be chosen and qualified.

SEC. 3. No person shall be eligible to the office of governor unless he shall have attained the age of thirty years, shall have been a citizen of the United States ten years, and shall have been a resident of Florida at least five years next preceding his election.

SEC. 4. There shall be elected at the same time, for the same term, and with like qualifications as the governor, a lieutenant-governor, who shall be *ex-officio* president of the senate, but shall have no vote except in cases of a tie, and during the session of the general assembly he shall receive such compensation as shall be allowed to a senator.

SEC. 5. The returns of every election for governor or lieutenant-governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall, during the first week of the session next after their election, open and publish them in the presence of both houses of the general assembly; and the persons having the highest number of votes for the respective offices shall be governor and lieutenant-governor; but if two or more shall be equal and highest in votes for the office of governor, one of them shall be chosen governor by the joint vote of the two houses; and, in like manner, if two or more shall be equal and highest in votes for the office of lieutenant-governor, one of them shall be chosen lieutenant-governor, by the joint vote of the two houses. And contested elections for governor and lieutenant-governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 6. The governor shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected; but such compensation shall never be less than three thousand dollars per annum.

SEC. 7. He shall be the commander-in-chief of the army and navy of this State, and of the militia thereof.

SEC. 8. He may require information in writing from the officers of the executive department on any subject relating to the duties of their respective offices.

SEC. 9. He may by proclamation, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if that shall have become dangerous from an enemy or from disease; and in case of disagreement between the two houses with respect to the time of adjournment, he may adjourn them to such time as he may think proper, not beyond the day of the next meeting designated by the constitution.

SEC. 10. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient.

SEC. 11. He shall take care that the laws be faithfully executed.

SEC. 12. In all criminal and penal cases, (except of impeachment,) after conviction, he shall have power to grant reprieves and pardons, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law.

SEC. 13. The State seal last heretofore used (until altered by the general assembly) shall continue to be the great seal of the State, and shall be kept by the governor for the time being, and used by him officially.

SEC. 14. All commissions shall be in the name and by the authority of the State of Florida, be sealed with the State seal, and signed by the governor and attested by the secretary of state.

SEC. 15. There shall be a secretary of state elected by the qualified electors of the State at the same time, and who shall continue in office for the same term of years as the governor of the State; and he shall keep a fair register of the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the general assembly, and shall perform such other duties as may be required of him by law.

SEC. 16. Vacancies that happen in offices, the appointment to which is vested in the general assembly, or given to the governor, with the advice and consent of the senate, shall be filled by the governor during the recess of the general assembly, by granting commissions which shall expire at the end of the next session.

SEC. 17. Every bill which shall have passed both houses of the general assembly shall be presented to the governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, who shall enter the objections at large upon the journals, and proceed to reconsider it; and if, after such reconsideration, two-thirds of the whole number voting shall agree to pass the bill, it shall be sent with the objections to the other house, by which it shall be reconsidered; and if approved by two-thirds of the whole number voting, it shall become a law; but in such cases the votes of both houses shall be by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house respectively; and if any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the general assembly by their adjournment prevent its return, in which case it shall not be law.

SEC. 18. Every order, resolution, or vote, to which the concurrence of both houses may be necessary (except on questions of adjournment) shall be presented to the governor, and before it shall take effect, be approved by him, or being disapproved, be repassed by both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 19. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the lieutenant-gov-

ernor shall exercise all the power and authority appertaining to the office of governor, until the governor, absent or impeached, shall return, or be acquitted, or until the governor next regularly elected shall be duly qualified, as the case may be; and for the time the lieutenant-governor shall occupy the office of governor he shall receive the same compensation as shall be allowed by law to the regularly-elected governor.

SEC. 20. In case of the impeachment of both the governor and the lieutenant-governor, their removal from office, death, refusal to qualify, resignation, or absence from the State, the speaker of the house of representatives shall in like manner administer the government, unless the general assembly shall otherwise provide; and for the time he shall occupy the office of governor, he shall receive the same compensation as shall be allowed by law to the governor.

SEC. 21. It shall be the duty of the general assembly to provide for the purchase or erection of a suitable building for the residence of the governor, and the governor shall reside at the seat of government; but whenever, by reason of danger from an enemy, or from disease, the governor may deem the capital unsafe, he may, by proclamation, fix the seat of government at some secure place within the State, until such danger shall cease.

SEC. 22. No person shall hold the office of governor and any other office or commission, civil or military, either in this State or under any State, or the United States, or any other power, at one and the same time, except the lieutenant-governor or the speaker of the house of representatives, when he shall hold the office as aforesaid.

SEC. 23. A State treasurer and comptroller of public accounts shall be elected by the qualified electors of the State at the same time, and who shall continue in office for the same term of years as the governor of the State, and until their successors shall have been duly commissioned and qualified.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in two distinct branches, the one to be styled the senate, the other the house of representatives, and both together "the general assembly of the State of Florida;" and the style of the laws shall be, "*Be it enacted by the senate and house of representatives of the State of Florida in general assembly convened.*"

SEC. 2. The members of the house of representatives shall be chosen by the qualified voters, and shall serve for the term of two years from the day of the general election, and no longer; and the sessions of the general assembly shall be annual, and commence on the second Wednesday in November in each year.

SEC. 3. The representatives shall be chosen every two years on the first Monday in the month of October, until otherwise directed by law.

SEC. 4. No person shall be a representative unless he be a white man, a citizen of the United States, and shall have been an inhabitant of the State two years next preceding his election, and the last year thereof a resident of the county for which he shall be chosen, and shall have attained the age of twenty-one years.

SEC. 5. The senators shall be chosen by the qualified electors for the term of two years, at the same time, in the same manner, and in the same places where they vote for members of the house of representatives, and no man shall be a senator unless he be a white man, a citizen of the United States, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a resident of the district or county for which he shall be chosen, and shall have attained the age of twenty-five years.

SEC. 6. The house of representatives, when assembled, shall choose a speaker and its other officers, and the senate, its other officers, and in the absence of the lieutenant-governor, a president *pro tempore*, and each house shall be judge of the qualifications, elections, and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

SEC. 7. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house may prescribe.

SEC. 8. Each house may determine the rules of its own proceedings, punish its members for disorderly behavior, and with the consent of two-thirds expel a member, but not a second time for the same cause.

SEC. 9. Each house, during the session, may punish, by imprisonment, any person not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings, provided such imprisonment shall not extend beyond the end of the session.

SEC. 10. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment; and the yeas and nays of the members of each house shall be taken and entered upon the journals upon the final passage of every bill, and may, by any two members, be required upon any other question; and any member of either house shall have liberty to dissent from, or protest against, any act or resolution which he may think injurious to the public, or an individual, and have the reasons of his dissent entered on the journal.

SEC. 11. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to or returning from the same, allowing one day for every twenty miles such member may reside from the place at which the general assembly is convened, and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 12. The general assembly shall make provision by law for filling vacancies that may occur in either house by the death, resignation, or otherwise of any of its members.

SEC. 13. The doors of each house shall be open when in legislative session, except on such occasions as, in the opinion of the house, the public safety may imperiously require secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 15. Bills may originate in either house of the general assembly; and all bills passed by one house may be discussed, amended, or rejected by the other; but no bill shall have the force of law until on three several days it be read in each house and free discussion be allowed thereon, unless, in cases of urgency, four-fifths of the house in which the same shall be depending may deem it expedient to dispense with the rule; and every bill having passed both houses shall be signed by the speaker and president of their respective houses.

SEC. 16. Each member of the general assembly shall receive from the public treasury such compensation for his services as may be fixed by law; but no increase of compensation shall take effect during the term for which the representatives were elected when such law passed.

SEC. 17. The sessions of the general assembly shall not extend in duration over thirty days, unless it be deemed expedient by a concurrent majority of two-thirds of the members of each house; and no member shall receive pay from the State for his services after the expiration of sixty days continuously from the commencement of the session.

SEC. 18. The general assembly shall by law authorize the circuit court to grant licenses for building toll-bridges, and to establish ferries, and to regulate the tolls of both; to construct dams across streams not navigable; to ascertain and declare what streams are navigable; but no special law for such purpose shall be made.

SEC. 19. The general assembly shall pass a general law prescribing the manner in which names of persons may be changed, but no special law for such purpose shall be passed; and no law shall be made allowing minors to contract, or manage their estates.

SEC. 20. The general assembly shall pass a general law for the incorporation of towns, religious, literary, scientific, benevolent, military, and other associations, not

commercial, industrial, or financial; but no special act incorporating any such association shall be passed.

Sec. 21. No act incorporating any railroad, banking, insurance, commercial, or financial corporation shall be introduced into the general assembly, unless the person or persons applying for such corporation shall have deposited with the treasurer the sum of one hundred dollars as a bonus to the State.

Sec. 22. Officers shall be removed from office for incapacity, misconduct, or neglect of duty, in such manner as may be provided by law, when no mode of trial or removal is provided in this constitution.

ARTICLE V.

JUDICIAL DEPARTMENT.

Section 1. The judicial power of this State, both as to matters of law and equity, shall be vested in a supreme court, courts of chancery, circuit courts, and justices of the peace, provided the general assembly may also vest such civil or criminal jurisdiction as may be necessary in corporation courts, and such other courts as the general assembly may establish; but such jurisdiction shall not extend to capital cases.

Sec. 2. The supreme court, except in cases otherwise directed in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may, from time to time, be prescribed by law: *Provided*, That the said court shall always have power to issue writs of injunction, *mandamus*, *quo warranto*, *habeas corpus*, and such other original and remedial writs as may be necessary to give it a general superintendence and control of all other courts.

Sec. 3. The supreme court shall be holden at such times and places as may be prescribed by law; and two judges of the circuit court may be added to the supreme court, when in session, at the discretion of the legislature; and the court so composed shall constitute the supreme court of the State, when the legislature shall so direct.

Sec. 4. The State shall be divided into convenient circuits; and for each circuit there shall be a judge, who shall, after his election or appointment, reside in the circuit for which he has been elected or appointed; and shall, as well as justices of the supreme court, receive for his services a salary of not less than twenty-five hundred dollars per annum, which shall not be diminished during his continuance in office: but the judges shall receive no fees, perquisites of office, nor hold any other office of profit under the State, the United States, or any other power.

Sec. 5. The circuit courts shall have original jurisdiction in all matters, civil and criminal, not otherwise excepted in this constitution.

Sec. 6. A circuit court shall be held in such counties, and at such times and places therein, as may be prescribed by law; and the judges of the several circuit courts may hold courts for each other, either for the entire circuit, or for a portion thereof, and they shall do so when required, by order of the governor or chief-justice of the supreme court; and they may exercise jurisdiction in cases of writs of *habeas corpus* in any judicial circuit in which the judge may happen to be at the time the case arises.

Sec. 7. The general assembly shall have power to establish and organize a separate court or courts of original equity jurisdiction; but until such court or courts shall be established and organized, the circuit courts shall exercise such jurisdiction.

Sec. 8. There shall be elected in each county of this State, by the qualified voters, an officer to be styled the judge of probate, to take probate of wills, to grant letters testamentary, of administration and guardianship, to attend to the settlement of the estates of decedents and minors, and to discharge the duties usually appertaining to courts of ordinary, and such other duties as may be required by law; subject to the direction and supervision of the circuit courts, as may be provided by law.

Sec. 9. A competent number of justices of the peace shall be from time to time elected in and for each county, in such mode, and for such term of office, as the general assembly may direct, and shall possess such jurisdiction as may be prescribed by law; and in cases tried before a justice of the peace, the right of appeal shall be secured under such rules and regulations as may be prescribed by law.

SEC. 10. There shall be appointed by the governor, by and with the advice and consent of the senate, a chief-justice and two associate justices of the supreme court of this State, who shall reside in this State, and hold their office for the term of six years from their appointment and confirmation, unless sooner removed under the provisions of this constitution, for the removal of judges by address or impeachment; and for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them on the address of two-thirds of the general assembly: *Provided, however,* That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defence, before any vote for such removal shall pass, and in such case the vote shall be taken by yeas and nays, and entered on the journal of each house respectively, and in case of the appointment to fill a vacancy in said offices, the person so appointed shall only hold office for the unexpired term of his predecessor.

SEC. 11. There shall be elected, at the time and places prescribed by law, by the qualified electors of each of the respective judicial circuits of this State, one judge of the circuit court, who shall reside in the circuit for which he may be elected, and the said circuit judges shall continue in office for the term of six years from the date of their respective elections, unless sooner removed, under the provisions in this constitution for the removal of judges by address or impeachment; and for wilful neglect of duty, or other reasonable cause, which shall not be sufficient for impeachment, the governor shall remove any of them, on the address of two-thirds of the general assembly: *Provided, however,* That the cause or causes shall be stated at length in such address, and entered on the journals of each house: *And provided further,* That the cause or causes shall be notified to such judge so intended to be removed, and he shall be admitted to a hearing in his own defence before any vote or votes for such removal shall pass; and in such cases the vote shall be taken by yeas and nays, and entered on the journals of each house respectively.

SEC. 12. The appointment of chief-justice and associate justices of the supreme court shall be made every sixth year after their first appointment, and the election of judges of the circuit court, and judges or chancellors of the chancery court, when established, shall be held in every sixth year after their first elections, at the same time and places as the elections for members of the general assembly.

SEC. 13. That whenever the general assembly shall create a chancery court, under the provisions of this constitution, the judges thereof shall be elected in the manner provided in the last two sections of this article, and shall hold their offices and be subject to all the provisions of said sections: *Provided, however,* That the said judges shall be elected by general ticket or by districts, as the general assembly may direct.

SEC. 14. That should a vacancy occur either in the chancery or circuit courts, by death, removal, resignation, or otherwise, it shall be the duty of the governor to issue a writ of election to fill such vacancy, and he shall give at least sixty days' notice thereof by proclamation; and the judge so elected to fill such vacancy shall continue in office from the time he qualifies under his commission until the expiration of the term of his predecessor: *Provided, however,* That should it become necessary to fill any such vacancy before an election can be held under the provisions of this constitution, the governor shall have power to fill such vacancy by appointment, and the person so appointed shall hold his office from the date of his commission until his successor shall be duly elected and qualified.

SEC. 15. The clerks of the circuit courts of the several circuits of this State shall be elected by the qualified voters in their several counties at such times and places as are now or may be provided by law: *Provided, however,* That the chief-justice of the supreme court and the chancellors of the court of chancery, when such courts shall be established, shall have the power to appoint the clerks of their respective courts.

SEC. 16. The justices of the supreme court, chancellors and judges of the circuit courts, shall, by virtue of their offices, be conservators of the peace throughout the State.

SEC. 17. The style of all process shall be "The State of Florida;" and all criminal prosecutions shall be carried on in the name of the State, and all indictments shall conclude, "against the peace and dignity of the same."

SEC. 18. There shall be an attorney-general for the State, who shall reside at the

seat of government, and he shall perform such duties as may be prescribed by law; he shall be elected by the qualified voters of the State, at the same time and in the same manner that the comptroller, secretary of state, and treasurer are elected, and his term of office shall be the same; but he may be removed by the governor, on the address of a majority of the two houses of the general assembly, and shall receive for his services a compensation to be fixed by law.

SEC. 19. There shall be one solicitor for each circuit, who shall reside therein, to be elected by the qualified electors of the circuit, who shall hold his office for the term of four years, and shall receive for his services a compensation to be fixed by law.

SEC. 20. No justice of the supreme court shall sit as a judge, or take part in the appellate court on the trial or hearing of any case which shall have been decided by him in the court below.

SEC. 21. The general assembly shall have power to establish in each county a board of commissioners, for the regulation of the county business therein.

SEC. 22. No duty not judicial shall be imposed by law upon the justices of the supreme court, chancellors, or the judges of the circuit courts of this State, except in cases otherwise provided for in this constitution.

ARTICLE VI.

THE RIGHT OF SUFFRAGE—CIVIL OFFICERS.

SECTION 1. Every free white male person of the age of twenty-one years and upwards, and who shall be, at the time of offering to vote, a citizen of the United States, and who shall have resided and had his habitation, domicile, home, and place of permanent abode in Florida, for one year next preceding the election at which he shall offer to vote, and who shall, at such time, and for six months immediately preceding said time, have had his habitation, domicile, and place of permanent abode in the county in which he may offer to vote, shall be deemed a qualified elector at all elections under the constitution, and none others; except in elections by general ticket in the State or district prescribed by law, in which cases the elector must have been a resident of the State one year next preceding the election, and six months within the elective district in which he offers to vote: *Provided*, That no officer, soldier, seaman, or marine in the Regular Army or Navy of the United States, or any other person in the employ or pay of the United States, unless he be a qualified elector of the State previous to his appointment or enlistment as such officer, soldier, seaman, or marine in the Regular Army or Navy of the United States, or of the revenue service, shall be considered a resident of the State in consequence of being stationed within the same.

SEC. 2. The general assembly shall have power to exclude from every office of honor, trust, or profit within the State, and from the right of suffrage, all persons convicted of bribery, perjury, or other infamous crime.

SEC. 3. No person shall be capable of holding or being elected to any post of honor, profit, trust, or emolument, civil or military, legislative, executive, or judicial, under the government of this State, who shall hereafter fight a duel, or send or accept a challenge to fight a duel, the probable issue of which may be the death of the challenger or challenged, or who shall be a second to either party, or who shall, in any manner, aid or assist in such duel, or shall be knowingly the bearer of such challenge or acceptance, whether the same occur or be committed in or out of the State; but the legal disability shall not accrue until after trial and conviction, according to due form of law.

SEC. 4. No person who may hereafter be a collector or holder of public moneys shall have a seat in either house of the general assembly, or be eligible to any office of trust or profit under this State, until he shall have accounted for and paid into the treasury all sums for which he may be accountable.

SEC. 5. No governor, member of Congress, or of the general assembly of this State, shall receive a fee, be engaged as counsel, agent, or attorney, in any civil case or claim against this State, or to which this State shall be a party, during the time he shall remain in office.

SEC. 6. No senator or representative shall, during the term for which he shall have



been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people.

SEC. 7. Members of the general assembly, and all officers, civil or military, before they enter upon the execution of their respective offices, shall take the following oath or affirmation: "I do swear (or affirm) that I am duly qualified, according to the constitution of this State, to exercise the office to which I have been elected, (or appointed,) and will, to the best of my abilities, discharge the duties thereof, and preserve, protect, and defend the constitution of this State, and of the United States of America."

SEC. 8. Every person shall be disqualified from serving as governor, senator, representative, or from holding any other office of honor or profit in this State, for the term for which he shall have been elected, who shall have been convicted of having given or offered any bribe to procure his election.

SEC. 9. Laws shall be made by the general assembly to exclude from office, and from suffrage, those who shall have been, or may hereafter be, convicted of bribery, perjury, forgery, or other high crime or misdemeanor; and the privilege of suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practices.

SEC. 10. All civil officers of the State at large shall reside within the State, and all district or county officers within their respective districts or counties, and shall keep their respective offices at such places therein as may be required by law.

SEC. 11. It shall be the duty of the general assembly to regulate by law in what cases and what deduction from the salaries of public officers shall be made for any neglect of duty in their official capacity.

SEC. 12. Returns of elections for members of Congress and the general assembly shall be made to the secretary of state, in manner to be prescribed by law.

SEC. 13. In all elections of the general assembly the vote shall be *viva voce*, and in all elections by the people the vote shall be by ballot.

SEC. 14. No member of Congress or person holding or exercising any office of profit under the United States, or under any foreign power, shall be eligible as a member of the general assembly of this State, or hold or exercise any office of profit under the State; and no person in this State shall ever hold two offices of profit at the same time, except the office of justice of the peace, notary public, constable, and militia officers, except by special act of the legislature; but the legislature shall never unite in the same person two offices the duties of which are incompatible.

SEC. 15. The general assembly shall, by law, provide for the appointment or election, and removal from office, of all officers, civil and military, in this State, not provided for in this constitution.

SEC. 16. The power of impeachment shall be vested in the house of representatives.

SEC. 17. All impeachments shall be tried by the senate; when sitting for that purpose the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 18. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit under this State; but the parties nevertheless shall be liable to indictment, trial, and punishment according to law.

ARTICLE VII.

MILITIA.

SECTION 1. All militia officers shall be elected or appointed, under such rules and regulations as the general assembly may from time to time direct and establish.

SEC. 2. All offences against the militia law shall be tried by court-martial, or before a court and jury, as the general assembly may direct.

SEC. 3. No commission shall be vacated except by sentence of a court-martial.

ARTICLE VIII.

TAXATION AND REVENUE.

SECTION 1. The general assembly shall advise and adopt a system of revenue, having regard to an equal and uniform mode of taxation throughout the State.

SEC. 2. No other or greater amount of tax or revenue shall at any time be levied than may be required for the necessary expenses of the government.

SEC. 3. No money shall be drawn from the treasury but in consequence of an appropriation by law, and a regular statement of the receipts and expenditures of all public moneys shall be published and promulgated annually with the laws of the general assembly.

SEC. 4. The general assembly shall have power to authorize the several counties and incorporated towns in this State to impose taxes for county and corporation purposes, respectively, and all property shall be taxed upon the principles established in regard to State taxation.

SEC. 5. The general assembly shall have power to authorize the levying of a capitation tax.

ARTICLE IX.

CENSUS AND APPORTIONMENT OF REPRESENTATION.

SECTION 1. The general assembly shall, in the year one thousand eight hundred and sixty-seven, and in the year one thousand eight hundred and seventy-five, and every tenth year thereafter, cause an enumeration to be made of all the inhabitants of the State; and to the whole number of white inhabitants shall be added three-fifths of the number of colored people; and they shall then proceed to apportion the representation equally among the different counties, according to such enumeration, giving, however, one representative to every county, and increasing the number of representatives on a uniform ratio of population, according to the foregoing basis, and which ratio shall not be changed until a new census shall have been taken.

SEC. 2. The general assembly shall also, after every such enumeration, proceed to fix by law the number of senators which shall constitute the senate of the State of Florida, and which shall never be less than one-fourth nor more than one-half of the whole number of the house of representatives; and they shall lay off the State into the same number of senatorial districts, as nearly equal in the number of inhabitants as may be, according to the ratio of representation established in the preceding section, each of which districts shall be entitled to one senator.

SEC. 3. When any senatorial district shall be composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district, and no county shall be divided in forming a district.

SEC. 4. No county now organized shall be divided into new counties, so as to reduce the inhabitants of either below the ratio of representation.

SEC. 5. The several counties of this State shall be entitled to the following representatives, viz: Escambia three, Santa Rosa two, Walton two, Holmes one, Washington one, Calhoun one, Franklin one, Jackson four, Gadsden three, Leon four, Wakulla one, Liberty one, Jefferson three, Madison two, Hamilton two, La Fayette one, Taylor one, Suwannee one, Columbia two, Baker one, Bradford one, Alachua two, Nassau one, Duval two, Clay one, Saint John's one, Putnam one, Marion two, Sumter one, Orange one, Volusia one, Brevard one, Levy one, Hernando one, Hillsborough one, Manatee one, Monroe one, Dade one, and Polk one. There shall be twenty-nine senatorial districts in this State, which shall be as follows: The county of Escambia shall compose the first district; the county of Santa Rosa shall compose the second district; the county of Walton shall compose the third district; the counties of Washington and Holmes shall compose the fourth district; the county of Franklin shall compose the fifth district; the county of Calhoun shall compose the sixth district; the county of Jackson shall compose the seventh district; the county of Gadsden shall compose the eighth district; the county of Liberty shall compose the ninth district; the county of Leon shall compose the tenth district; the county of Wakulla shall compose the

eleventh district; the county of Jefferson shall compose the twelfth district; the county of Madison shall compose the thirteenth district; the county of Hamilton shall compose the fourteenth district; the counties of La Fayette and Taylor shall compose the fifteenth district; the county of Columbia shall compose the sixteenth district; the county of Suwannee shall compose the seventeenth district; the counties of Baker and Bradford shall compose the eighteenth district; the county of Alachua shall compose the nineteenth district; the county of Nassau shall compose the twentieth district; the counties of Duval and Clay shall compose the twenty-first district; the counties of Saint John's and Putnam shall compose the twenty-second district; the county of Marion shall compose the twenty-third district; the county of Sumter shall compose the twenty-fourth district; the counties of Orange and Volusia shall compose the twenty-fifth district; the counties of Levy and Hernando shall compose the twenty-sixth district; the counties of Hillsborough and Manatee shall compose the twenty-seventh district; the counties of Polk and Brevard shall compose the twenty-eighth district; and the counties of Monroe and Dale shall compose the twenty-ninth district; and each senatorial district shall be entitled to one senator.

ARTICLE X.

EDUCATION.

SECTION 1. The proceeds of all lands for the use of schools and a seminary or seminaries of learning shall be and remain a perpetual fund, the interest of which, together with all moneys accrued from any other source, applicable to the same object, shall be inviolably appropriated to the use of schools and seminaries of learning respectively, and to no other purpose.

SEC. 2. The general assembly shall take such measures as may be necessary to preserve from waste or damage all lands so granted and appropriated for the purpose of education.

ARTICLE XI.

PUBLIC DOMAIN AND INTERNAL IMPROVEMENT.

SECTION 1. It shall be the duty of the general assembly to provide for the prevention of waste and damage of the public lands, that may hereafter be ceded to the State of Florida, and it may pass laws for the sale of any part or portion thereof, and, in such cases, provide for the safety, security, and appropriation of the proceeds, but in no wise to affect the purposes for which said lands have heretofore been appropriated.

SEC. 2. A liberal system of internal improvements, being essential to the development of the resources of the State, shall be encouraged by the government of this State; and it shall be the duty of the general assembly, as soon as practicable, to ascertain by law proper objects for the extension of internal improvements, in relation to roads, canals, and navigable streams, and to provide for a suitable application of such funds as may have been, or may hereafter be, appropriated by said general assembly for such improvements.

SEC. 3. That the general assembly may at any time cede to the United States Government a sufficient parcel or fraction of land for the purpose of coast defence and other national purposes.

ARTICLE XII.

BOUNDARIES.

SECTION 1. The boundary of the State of Florida shall be as follows: Commencing at the mouth of the river Perdido, from thence up the middle of said river to where it intersects the southern boundary-line of the State of Alabama, on the thirty-first degree of north latitude; then due east to the Chattahoochee river; thence down the middle of said river to its confluence with the Flint River; from thence straight to the head of the Saint Mary's River; thence down the middle of said river to the Atlantic Ocean; thence southwardly to the Gulf of Florida and Gulf of Mexico; thence northwardly and westwardly, including all islands within five leagues of the shore, to the beginning.

ARTICLE XIII.

BANKS AND OTHER CORPORATIONS.

SECTION 1. The general assembly shall pass no act of incorporation, nor make any alteration in one, unless with the assent of at least two-thirds of each house, and unless public notice in one or more newspapers in the State shall have been given for at least three months immediately preceding the session at which the same may be applied for.

SEC. 2. No bank-charter, nor any act of incorporation granting exclusive privileges, shall be granted for a longer period than twenty years.

SEC. 3. Banks chartered by the general assembly shall be restricted to the business of exchange, discount, and deposit, and they shall not deal in real estate, nor in merchandise or chattels, except as security for loans or discounts, or for debts due to such bank; nor shall they be concerned in insurance, manufacturing, exportation, or importation, except of bullion or specie; nor shall they own real estate or chattels, except such as shall be necessary for their actual use in the transaction of business, or which may be received in payment of previously-contracted debts, or purchased at legal sales to satisfy such debts, of which they shall be required to make sale within three years after the acquisition thereof.

SEC. 4. The capital stock of any bank shall not be less than one hundred thousand dollars, to be paid in suitable instalments, and shall be created only by the payment of specie therein.

SEC. 5. All liabilities of such banks shall be payable in specie, and the circulation of no bank shall exceed three dollars for one of capital actually paid in.

SEC. 6. No dividends or profits exceeding ten per centum per annum on the capital stock paid in shall be made; but all profits over ten per centum per annum shall be set apart and retained as a safety fund.

SEC. 7. Stockholders in a bank, when an act of forfeiture is committed, or when it is dissolved or has expired, shall be individually and severally liable for the redemption of the outstanding circulation, in proportion to the stock owned by each; and no transfer of stock shall exonerate such stockholders from this liability, unless such transfer was made at least two years previous to said forfeiture, dissolution, or expiration.

SEC. 8. Banks shall be open to inspection, under such regulations as may be prescribed by law; and it shall be the duty of the governor to appoint a person or persons, not connected in any manner with any bank in the State, to examine at least once a year into their state and condition; and the officers of every bank shall make quarterly returns, under oath, to the governor of its state and condition, and the names of the stockholders, and shares held by each.

SEC. 9. Non-user for the space of one year, or any act of a corporation, or those having the control or management thereof, or intrusted therewith, inconsistent with or in violation of the provisions of this constitution or of its charter, shall cause its forfeiture, and the general assembly shall by general law provide a summary process for the sequestration of its effects and assets, and the appointment of officers to settle its affairs; and no forfeited charter shall be restored.

SEC. 10. The general assembly shall not pledge the faith and credit of the State to raise funds in the aid of any corporation whatever.

ARTICLE XIV.

AMENDMENTS AND REVISIONS OF THE CONSTITUTION.

SECTION 1. No part of this constitution shall be altered except by a convention duly elected.

SEC. 2. No convention of the people shall be called unless by the concurrence of two-thirds of all the members of each house of the general assembly, made known by the passing of a bill, which shall be read three times on three several days in each house.

SEC. 3. Whenever a convention shall be called, proclamation of an election for delegates shall be made by the governor at least thirty days before the day of election.



Every county and senatorial district shall be entitled to as many delegates as it has representatives in the general assembly. The same qualifications shall be required in delegates and in electors that are required in members of the general assembly, and voters for the same respectively; and the elections for delegates to a convention, and the returns of such election, shall be held and made in the manner prescribed by law for regulating elections for members of the general assembly, but the convention shall judge of the qualifications of its members.

ARTICLE XV.

SEAT OF GOVERNMENT.

The seat of government shall be and remain permanent at the city of Tallahassee, until otherwise provided for by the action of a convention of the people of the State.

ARTICLE XVI.

GENERAL PROVISIONS.

SECTION 1. Whereas slavery has been destroyed in this State by the Government of the United States, therefore neither slavery nor involuntary servitude shall in future exist in this State, except as a punishment for crimes whereof the party shall have been convicted by the courts of the State; and all the inhabitants of the State, without distinction of color, are free, and shall enjoy the rights of person and property, without distinction of color.

SEC. 2. In all criminal proceedings founded upon injury to a colored person, and in all cases affecting the rights and remedies of colored persons, no person shall be incompetent to testify as a witness on account of color; in all other cases, the testimony of colored persons shall be excluded, unless made competent by future legislation. The jury shall judge of the credibility of the testimony.

SEC. 3. The jurors of this State shall be white men, possessed of such qualifications as may be prescribed by law.

SEC. 4. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his confession in open court.

SEC. 5. Divorces from the bonds of matrimony shall not be allowed but by the judgment of a court, as shall be prescribed by law.

SEC. 6. The general assembly shall declare by law what parts of the common law and what parts of the civil law, not inconsistent with this constitution, shall be in force in this State.

SEC. 7. The oaths of officers directed to be taken under this constitution may be administered by any judge or justice of the peace in the State of Florida until otherwise provided by law.

ARTICLE XVII.

SCHEDULE AND ORDINANCE.

SECTION 1. All laws of the State passed during and since the tenth session of the legislature thereof, in 1860, not repugnant to the constitution of this State or of the United States, shall be valid; all writs, actions, prosecutions, judgments, and decrees of the courts of the State, all executions and sales made thereunder, and all acts, orders, and proceedings of the judges of probate, and of executors, administrators, guardians, and trustees, provided they were in conformity to the laws then in force, and not fraudulent, shall be as valid as if made under the usual and ordinary legislation of the country, provided that the same be not repugnant to the constitution of the State and of the United States.

SEC. 2. All fines, penalties, forfeitures, obligations, and escheats heretofore accruing to the State of Florida, and not made unlawful by the constitution or laws of the United States, shall continue to accrue to the use of the State.

SEC. 3. All recognizances heretofore taken shall remain valid, and all bonds executed to the governor of the State of Florida, either before or since the 1st day of January, 1861, or to any other officer of the State in his official capacity, shall be of full force and virtue for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all criminal prosecutions and penal actions which have arisen may be prosecuted to judgment and execution in the name of the State.

SEC. 4. The provisional governor of this State is hereby requested to authorize the civil officers of this State who were discharging the duties of their offices prior to or during the month of May, A. D. 1865, to resume the exercise of the functions of their respective offices, and to make such other appointments to office as may be necessary or proper to reorganize or reëstablish the civil government of this State; and all actions at law or suits in chancery, or any proceeding pending in any of the courts in this State prior to or during the said month of May, A. D. 1865, and either before or subsequent to the 10th day of January, A. D. 1861, shall continue in all respects valid, and may be prosecuted to judgment and decree; and all judgments and decrees rendered in civil causes in any of the courts in this State during the period of time last above specified, and not repugnant to the Constitution of the United States, are hereby declared of full force, validity, and effect.

SEC. 5. The provisional governor of the State is hereby requested and authorized, at as early a day as practicable, to issue writs of election to the proper officers in the different counties in this State, and make proclamation for an election for governor, lieutenant-governor, secretary of state, treasurer, comptroller of public accounts, attorney-general, circuit judges, judge of probate, sheriffs, clerks of circuit courts, solicitors, Representative in Congress, senators and representatives of the general assembly, county commissioners, coroners, justices of the peace, county surveyors, and all other officers provided for by this constitution. The said election shall be held on the 29th day of November, A. D. 1865. The said election shall be conducted according to the existing laws of the State of Florida, and shall take place on the same day throughout the State, the returns to be made according to law. The members of the general assembly, so elected, shall assemble on the 3d Monday in December, A. D. 1865. The governor, lieutenant-governor, secretary of state, treasurer, comptroller of public accounts, attorney-general, circuit judges, judges of probate, sheriffs, clerks of circuit courts, solicitors, Representative in Congress, senators and representatives of the general assembly, county commissioners, coroners, justices of the peace, county surveyors, and all other officers provided for by this constitution, shall enter upon the duties of their respective offices immediately after their election, and shall continue in office in the same manner and during the same period they would have done had they been elected on the first Monday in October, A. D. 1865. The Representative in Congress shall continue in office in the same manner and during the same period he would have done had he been elected on the first Monday in October, A. D. 1865.

SEC. 6. The statutes of limitations shall not be pleaded upon any claim in the hands of any person whomsoever, not sued upon when such claim was not barred by the statutes of limitation on the 10th day of January, 1861.

SEC. 7. No law of this State providing that claims or demands against the estates of decedents shall be barred if not presented within two years, shall be considered as being in force within this State between the 10th day of January, 1861, and the 25th day of October, 1865.

Done in open convention. In witness whereof the undersigned, the president of said convention, and delegates present, representing the people of Florida, do hereby sign our names this the seventh day of November, anno Domini eighteen hundred and sixty-five, and of the Independence of the United States the ninetieth year, and the secretary of said convention doth countersign the same.

E. D. TRACY, *President.*

A. J. PEELER, *Secretary.*

CONSTITUTION OF FLORIDA—1868.*

PREAMBLE.

We the people of the State of Florida, grateful to Almighty God for our freedom, in order to secure its blessings and form a more perfect government, insuring domestic tranquillity, maintaining public order, perpetuating liberty, and guaranteeing equal civil and political rights to all, do establish this constitution:

See Digest, Laws of Florida 1881

~~ARTICLE I.~~

DECLARATION OF RIGHTS.

SECTION 1. All men are by nature free and equal, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of its citizens, and they have the right to alter or amend the same whenever the public good may require it; but the paramount allegiance of every citizen is due to the Federal Government, and no power exists with the people of this State to dissolve its connection therewith.

SEC. 3. This State shall ever remain a member of the American Union, the people thereof a part of the American nation, and any attempt, from whatever source, or upon whatever pretence, to dissolve said Union, or to sever said nation, shall be resisted with the whole power of the State.

SEC. 4. The right of trial by jury shall be secured to all, and remain inviolate forever; but in all civil cases a jury-trial may be waived by the parties in the manner to be prescribed by law.

SEC. 5. The free exercise and enjoyment of religious profession and worship shall forever be allowed in this State, and no person shall be rendered incompetent as a witness on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to justify licentiousness, or practices subversive of the peace and safety of the State.

SEC. 6. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of invasion or rebellion, the public safety may require its suspension.

SEC. 7. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment be inflicted, nor shall witnesses be unreasonably detained.

SEC. 8. All persons shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, the presumption great.

SEC. 9. No person shall be tried for a capital or otherwise infamous crime, except in cases of impeachment, and in cases of the militia when in active service in time of war, or which the State may keep, with the consent of Congress, in time of peace, and in cases of petit larceny, made under the regulation of the legislature, unless on presentment and indictment by a grand jury; and in any trial by any court the party accused shall be allowed to appear and defend in person, and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offence, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken without just compensation.

SEC. 10. Every citizen may fully speak and write his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed to restrain or abridge the liberty of speech or the press. In all criminal prosecutions and civil actions for libel the truth may be given in evidence to the jury, and if it shall appear

* This constitution was framed at a convention held under the reconstruction laws at Tallahassee, January 20, 1868, which ignored the constitution of 1865, and completed its work February 25, 1868. It was submitted to the people in May, 1868, and ratified by 14,520 votes against 9,491 votes.

that the matter charged as libellous is true, but was published from good motives, the party shall be acquitted or exonerated.

SEC. 11. The people shall have the right to assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievance.

SEC. 12. All laws of a general nature shall have a uniform operation.

SEC. 13. The military shall be subordinate to the civil power.

SEC. 14. No soldier shall, in time of peace, be quartered in any house, except with the consent of the owner, nor in time of war, except in manner prescribed by law.

SEC. 15. Representatives shall be apportioned according to population, as well as may be, but no county shall have more than four representatives and less than one representative in the assembly.

SEC. 16. No person shall be imprisoned for debt, except in case of fraud.

SEC. 17. No bill of attainder, or *ex post facto* law, impairing the obligations of contracts, shall ever be passed.

SEC. 18. Foreigners, who are, or who may hereafter become, *bona-fide* residents of the State, shall enjoy the same rights in respect to possession, enjoyment, and inheritance of property as native-born citizens.

SEC. 19. Neither slavery or involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

SEC. 20. The right of the people to be secure in either person, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated, and no warrants issued but in probable cause, supported by oath or affirmation, particularly describing the place or places to be searched, and the person or persons and thing or things to be seized.

SEC. 21. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort; and no person shall be convicted of treason unless on the testimony of two witnesses to the overt act, or confession in open court. This enunciation of rights shall not be construed to impair or deny others retained by the people.

SEC. 22. The people shall have the right to bear arms in defence of themselves and of the lawful authority of the State.

SEC. 23. No preference can be given by law to any church, sect, or mode of worship.

ARTICLE II.

BOUNDARIES.

The boundaries of the State of Florida shall be as follows: Commencing at the mouth of the river Perdido; from thence up the middle of said river to where it intersects the south boundary-line of the State of Alabama on the thirty-first degree of north latitude; thence due east to the Chattahoochee River; thence down the middle of said river to its confluence with the Flint River; from thence straight to the head of the Saint Mary's River; thence down the middle of said river to the Atlantic Ocean; thence southeastwardly, along the coast, to the edge of the Gulf Stream; thence southwestwardly, along the edge of the Gulf Stream and Florida Reefs, to and including the Tortugas Islands; thence northwestwardly to a point five leagues from the mainland; thence northwestwardly five leagues from the shore, including all islands, to a point five leagues due south from the middle of the mouth of Perdido River; thence to the place of beginning.

ARTICLE III.

SEAT OF GOVERNMENT.

The seat of government shall be and remain permanent at the city of Tallahassee, in the county of Leon, until otherwise located by a majority vote of the legislature, and by a majority vote of the people.

ARTICLE IV.

DISTRIBUTION OF POWER.

The powers of the government of the State of Florida shall be divided into three departments, to wit, legislative, executive, and judicial. No person properly belonging to one of the departments shall exercise any functions appertaining to either of the others, except in those cases expressly provided for by this constitution.

ARTICLE V.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority of this State shall be vested in a senate and assembly, which shall be designated "The legislature of the State of Florida," and the sessions thereof shall be held at the seat of government of the State.

SEC. 2. The sessions of the legislature shall be annual; the first session on the second Monday of June, A. D. 1868, and thereafter on the first Tuesday after the first Monday of January, commencing in the year A. D. 1869. The governor may, in the interim, convene the legislature in extra session by his proclamation.

SEC. 3. The members of the assembly shall be chosen biennially; those of the first legislature on the first Monday, Tuesday, and Wednesday of May, A. D. 1868, and thereafter on the first Tuesday after the first Monday of November, commencing with the year A. D. 1870.

SEC. 4. Senators shall be chosen for the term of four years, at the same time and place as members of the assembly: *Provided*, That the senators elected at the first election from the senatorial districts designated by even numbers shall vacate their seats at the expiration of two years, and thereafter all senators shall be elected for the term of four years, so that one-half of the whole number shall be elected biennially.

SEC. 5. Senators and members of the assembly shall be duly qualified electors in the respective counties and districts which they represent.

SEC. 6. Each house shall judge of the qualifications, elections, and returns of its own members; choose its own officers, except the president of the senate, determine the rules of its proceedings, and may punish its members for disorderly conduct, and, with the concurrence of two-thirds of all the members present, expel a member.

SEC. 7. Either house, during the session, may punish by imprisonment any person, not a member, who shall have been guilty of disorderly or contemptuous conduct in its presence; but such imprisonment shall not extend beyond the final adjournment of the session.

SEC. 8. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the presence of absent members in such manner and under such penalties as each house may prescribe.

SEC. 9. Any person who shall be convicted of embezzlement or defalcation of the funds of this State, or of having given or offered a bribe to secure his election or appointment to office, or of having received a bribe to aid in the procurement of office for any other person, shall be disqualified from holding any office of honor, profit, or trust in the State; and the legislature shall, as soon as practicable, provide by law for the punishment of such embezzlement, defalcation, or bribery as a felony.

SEC. 10. Each house shall keep a journal of its own proceedings, which shall be published, and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journal.

SEC. 11. The doors of each house shall be kept open during its session, except the senate while sitting in executive session; and neither shall, without the consent of the other, adjourn for more than three days, or to any other town than that in which they may be holding their session.

SEC. 12. Any bill may originate in either house of the legislature, and after being passed in one house may be amended in the other.

SEC. 13. The enacting clause of every law shall be as follows: "*The people of the State of Florida, represented in senate and assembly, do enact as follows.*"

SEC. 14. Each law enacted in the legislature shall embrace but one subject, and matters properly connected therewith, which subject shall be briefly expressed in the title; and no law shall be amended or revised by reference to its title only, but in such case the act as revised, or section as amended, shall be reënacted and published at length.

SEC. 15. Every bill shall be read by sections in three several days in each house, unless, in case of emergency, two-thirds of the house where such bill may be pending shall deem it expedient to dispense with this rule; but the reading of a bill by sections on its final passage shall in no case be dispensed with; and the vote on the final passage of every bill, or joint resolution, shall be taken by yeas and nays, to be entered in the journal of each house, and a majority of the members present in each house shall be necessary to pass every bill or joint resolution, and all bills or joint resolutions so passed shall be signed by the presiding officers of the respective houses, and by the secretary of the senate and clerk of the assembly.

SEC. 16. No money shall be drawn from the treasury except by appropriation made by law, and accurate statements of the receipts and expenditures of the public money shall be attached to and published with the laws passed at every regular session of the legislature.

SEC. 17. The legislature shall not pass special or local laws in any of the following enumerated cases, that is to say: regulating the jurisdiction and duties of any class of officers, or for the punishment of crime or misdemeanor; regulating the practices of courts of justice; providing for changing venue of civil and criminal cases; granting divorces; changing the names of persons; vacating roads, town-plats, streets, alleys, and public squares; summoning and impanelling grand and petit juries, and providing for their compensation; regulating county, township, and municipal business; regulating the election of county, township, and municipal officers; or the assessment and collection of taxes for State, county, and municipal purposes; providing for opening and conducting elections for State, county, and municipal officers, and designating the places of voting; providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities; regulating the fees of officers.

SEC. 18. In all cases enumerated in the preceding section, and in all other cases where general law can be made applicable, all laws shall be general and of uniform operation throughout the State.

SEC. 19. Provision may be made by general law for bringing suit against the State as to all liabilities now existing or hereafter originating.

SEC. 20. Lotteries are hereby prohibited in this State.

SEC. 21. The legislature shall establish a uniform system of county, township, and municipal government.

SEC. 22. The legislature shall provide by general law for incorporating such municipal, educational, agricultural, mechanical, mining, and other useful companies or associations as may be deemed necessary.

SEC. 23. Laws shall be passed regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 24. Regular sessions of the legislature may extend to sixty days, but any special session convened by the governor shall not exceed twenty days.

SEC. 25. All property, both real and personal, of the wife, owned by her before marriage, or acquired afterward by gift, devise, descent, or purchase, shall be her separate property, and not liable for the debts of her husband.

SEC. 26. The legislature shall provide for the election by the people, or appointment by the governor, of all State, county, or municipal officers not otherwise provided for by this constitution, and fix by law their duties and compensation.

SEC. 27. Every bill which may have passed the legislature shall, before becoming a law, be presented to the governor; if he approves it he shall sign it, but if not, he shall return it with his objections to the house in which it originated, which house shall cause such objections to be entered upon its journals, and proceed to reconsider it; if after such reconsideration it shall pass both houses by a two-thirds vote of the

members present, which vote shall be entered on the journal of each house, it shall become a law. If any bill shall not be returned within five days (Sundays excepted) after it shall have been presented to the governor, the same shall be a law, in like manner as if he had signed it. If the legislature by its final adjournment prevent such action, such bill shall be a law, unless the governor, within ten days next after the adjournment, shall file such bill with his objections thereto in the office of the secretary of state, who shall lay the same before the legislature at its next session, and if the same shall receive two-thirds of the votes present it shall become a law.

SEC. 28. The assembly shall have the sole power of impeachment, but a vote of two-thirds of all the members present shall be required to impeach any officer; and all impeachments shall be tried by the senate when sitting for that purpose. The senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present.

The chief-justice shall preside at all trials by impeachment, except in the trial of the chief-justice, when the lieutenant-governor shall preside.

The governor, lieutenant-governor, members of the cabinet, justices of the supreme court, and judges of the circuit court, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted or acquitted shall, nevertheless, be liable to indictment, trial, and punishment according to law. All other officers who shall have been appointed to office by the governor, and by and with the consent of the senate, may be removed from office upon the recommendation of the governor and consent of the senate, but they shall nevertheless be liable to indictment, trial, and punishment according to law for any misdemeanor in office; all other civil officers shall be tried for misdemeanors in office in such manner as the legislature may provide.

SEC. 29. The legislature shall elect United States Senators in the manner prescribed by the Congress of the United States and by this constitution.

SEC. 30. Laws making appropriation for the salaries of public officers, and other current expenses of the State, shall contain provisions on no other subject.

ARTICLE V

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EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of the State shall be vested in a chief magistrate, who shall be styled the governor of Florida.

SEC. 2. The governor shall be elected by the qualified electors at the same time and places of voting for the members of the legislature, and shall hold his office for four years from the time of his installation: *Provided*, That the term of the first governor elected under this constitution shall expire at the opening of the regular session of the legislature of A. D. 1873, and until his successor shall be qualified. He shall take the oath of office prescribed for all State officers.

SEC. 3. No person shall be eligible to the office of governor who is not a qualified elector, and who has not been nine years a citizen of the United States, and three years of the State of Florida, next preceding the time of his election.

SEC. 4. The governor shall be commander-in-chief of the military forces of the State, except when they shall be called into the service of the United States.

SEC. 5. He shall transact all executive business with the officers of the government, civil and military, and may require information in writing from the officers of the administrative department upon any subject relating to the duties of their respective offices.

SEC. 6. He shall see that the laws are faithfully executed.

SEC. 7. When any office, from any cause, shall become vacant, and no mode is provided by this constitution or by the laws of the State for filling such vacancy, the governor shall have the power to fill such vacancy by granting a commission which shall expire at the next election.

SEC. 8. The governor may, on extraordinary occasions, convene the legislature by



proclamation, and shall state to both houses, when organized, the purpose for which they have been convened, and the legislature then shall transact no legislative business except that for which they are specially convened, or such other legislative business as the governor may call to the attention of the legislature while in session, except by the unanimous consent of both houses.

SEC. 9. He shall communicate by message to the legislature at each regular session the condition of the State, and recommend such measures as he may deem expedient.

SEC. 10. In case of a disagreement between the two houses with respect to the time of adjournment, the governor shall have power to adjourn the legislature to such time as he may think proper, provided it is not beyond the time fixed for the meeting of the next legislature.

SEC. 11. The governor shall have power to suspend the collection of fines and forfeitures, and grant reprieves for a period not exceeding sixty days, dating from the time of conviction, for all offences, except in cases of impeachment. Upon conviction for treason he shall have power to suspend the execution of sentence until the case shall be reported to the legislature at its next session, when the legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve; and if the legislature shall fail or refuse to make final disposition of such case, the sentence shall be enforced at such time and place as the governor may by his order direct. The governor shall communicate to the legislature at the beginning of every session every case of fine or forfeiture remitted or reprieved, pardon or commutation granted, stating the name of the convict, the crime for which he was convicted, the sentence, its date, and the date of its remission, commutation, pardon, or reprieve.

SEC. 12. The governor, justices of the supreme court, and attorney-general, or a major part of them, of whom the governor shall be one, may, upon such conditions and with such limitations and restrictions as they may deem proper, remit fines and forfeitures, commute punishments, and grant pardons after conviction, in all cases except treason and impeachments, subject to such regulations as may be provided by law relative to the manner of applying for pardons.

SEC. 13. The grants and commissions shall be in the name and under the authority of the State of Florida, sealed by the great seal of the State, signed by the governor, and countersigned by the secretary of state.

SEC. 14. A lieutenant-governor shall be elected at the same time and places, and in the same manner, as the governor, whose term of office and eligibility shall also be the same. He shall be the president of the senate, but shall have only a casting vote therein. If during a vacancy of the office of governor the lieutenant-governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the president *pro tempore* of the senate shall act as governor until the office be filled or the disability cease.

SEC. 15. In the case of the impeachment of the governor, or his removal from office, death, inability to discharge his official duties, or resignation, the power and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability shall cease; but the governor shall not, without the consent of the legislature, be out of the State in time of war.

see p. 368 substitute

SEC. 16. The governor may at any time require the opinion of the justices of the supreme court as to the interpretation of any portion of this constitution, or upon any point of law, and the supreme court shall render such opinion in writing.

SEC. 17. The governor shall be assisted by a cabinet of administrative officers, consisting of a secretary of state, attorney-general, comptroller, treasurer, surveyor-general, superintendent of public instruction, adjutant-general, and commissioner of immigration. Such officers shall be appointed by the governor, and confirmed by the senate, and shall hold their offices the same time as the governor, or until their successors shall be qualified.

SEC. 18. The governor shall, by and with the consent of the senate, appoint all commissioned officers of the State militia.

SEC. 19. The governor shall appoint, by and with the consent of the senate, in each county, an assessor of taxes and collector of revenue, whose duties shall be prescribed by law, and who shall hold their offices for two years, and be subject to removal upon



the recommendation of the governor and consent of the senate. The governor shall appoint in each county a county treasurer, county surveyor, superintendent of common schools, and five county commissioners, each of whom shall hold his office for two years, the duties of which shall be prescribed by law. Such officers shall be subject to removal by the governor when in his judgment the public welfare will be advanced thereby: *Provided*, No officer shall be removed except for wilful neglect of duty, or a violation of the criminal laws of the State, or for incompetency.

SEC. 20. The governor and cabinet shall constitute a board of commissioners of State institutions, which board shall have supervision of all matters connected therewith, in such manner as shall be prescribed by law.

SEC. 21. The governor shall have power, in cases of insurrection or rebellion, to suspend the writ of *habeas corpus* within the State.

ARTICLE VII.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State shall be vested in a supreme court, circuit courts, county courts, and justices of the peace.

SEC. 2. The style of all process shall be, "The State of Florida;" and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 3. The supreme court shall consist of a chief-justice and two associate justices, who shall hold their offices for life or during good behavior. They shall be appointed by the governor and confirmed by the senate.

SEC. 4. The majority of the justices of the supreme court shall constitute a quorum for the transaction of all business. The supreme court shall hold three terms each year, in the supreme court room at the seat of government. Such terms shall commence on the second Tuesday of October, January, and April, respectively.

SEC. 5. The supreme court shall have appellate jurisdiction in all cases in equity, also in all cases of law in which is involved the title to or right of possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand or the value of the property in controversy exceeds three hundred dollars; also in all other civil cases not included in the general subdivisions of law and equity; also in all questions of law alone, in all criminal cases in which the offences charged amount to felony. The court shall have power to issue writs of *mandamus*, *certiorari*, prohibition, *quo warranto*, *habeas corpus*, and also all writs necessary or proper to the complete exercise of its appellate jurisdiction.

Each of the justices shall have the power to issue writs of *habeas corpus* to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself, or the supreme court, or before any circuit court in the State, or before any judge of said courts.

SEC. 6. The supreme court shall appoint a clerk of the supreme court, who shall have his office at the capitol, and shall be librarian of the supreme court library; he shall hold his office until his successor is appointed and qualified.

SEC. 7. There shall be seven circuit judges appointed by the governor, and confirmed by the senate, who shall hold their office for eight years. The State shall be divided into seven judicial districts, the limits of which are defined in this constitution, and one judge shall be assigned to each circuit. Such judge shall hold two terms of his court in each county within his circuit each year, at such times and places as shall be prescribed by law. The chief-justice may, in his discretion, order a temporary exchange of circuits by the respective judges, or any judge to hold one or more terms in any other circuit than that to which he is assigned. The judge shall reside in the circuit in which he is assigned.

SEC. 8. The circuit courts in their several judicial circuits shall have original jurisdiction in all cases of equity; also in all cases at law which involve the title or the right of possession to, or the possession of, or the boundaries of real property; of the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand or the value of property in controversy exceeds three hundred dollars, and of the action of forcible entry and unlawful detainer, and also in all

criminal cases amounting to felony. They shall have final appellate jurisdiction in all civil cases arising in the county court in which the amount in controversy is one hundred dollars and upwards, and in all cases of misdemeanor. The circuit courts and the judges thereof shall have power to issue writs of *mandamus*, injunction, *quo warranto*, *certiorari*, and all other writs proper and necessary to the complete exercise of their jurisdiction, and also shall have power to issue writs of *habeas corpus* on petition by or on behalf of any person held in actual custody in their respective circuits.

SEC. 9. There shall be a county court organized in each county. The governor shall appoint a county judge for each county, who shall be confirmed by the senate, and such judge shall hold his office for four years from the date of his commission, or until his successor is appointed and qualified.

SEC. 10. The county court shall be a court of oyer and terminer.

SEC. 11. The county court shall have jurisdiction of all misdemeanors and all civil cases where the amount in controversy does not exceed three hundred dollars; and its jurisdiction shall be final in all civil cases where the amount in controversy does not exceed one hundred dollars; but in no case shall the county court have jurisdiction when the title or boundaries of real estate is in controversy, or where the jurisdiction will conflict with that of the several courts of record; but they may have coextensive jurisdiction with the circuit courts in cases of forcible entry and unlawful detention of real estate, subject to appeal to the circuit court. The county court shall have full surrogate or probate powers, but subject to appeal. Provision shall be made by law for all other powers, duties, and responsibilities of the county courts and judges. There shall be a regular trial-term of the county courts six times in each year, at such times and places as may be prescribed by law.

SEC. 12. The grand and petit jurors shall be taken from the registered voters of the respective counties.

SEC. 13. In all trials, civil and criminal, in the circuit and county courts, the evidence shall be reduced to writing by the clerk of the court or his deputy, under the control of the court; and every witness after his examination shall have done, shall be at liberty to correct the evidence he has given, and afterwards shall sign the same; such evidence shall be filed in the office of the clerk, with the papers in the case.

SEC. 14. All pleas shall be sworn to either by the parties or their attorneys.

SEC. 15. The governor shall appoint as many justices of the peace as he may deem necessary. Justices of the peace shall have criminal jurisdiction and civil jurisdiction not to exceed fifty dollars, but this shall not extend to the trial of any person for misdemeanor or crime. The duties of justice of the peace shall be fixed by law. Justices of the peace shall hold their offices during good behavior, subject to removals by the governor at his own discretion.

SEC. 16. The legislature may establish courts for municipal purposes only in incorporated towns and cities. All laws for the organization or government of municipal courts shall be general in their provisions, and be equally applicable to the municipal courts of all incorporated towns and cities.

SEC. 17. Any civil cause may be tried before a practising attorney as referee, upon the application of the parties, and an order from the court in whose jurisdiction the case may be authorizing such trial and appointing such referee. Such referee shall keep a complete record of the case, including the evidence taken, and such record shall be filed with the papers in the case in the office of the clerk, subject to an appeal in the manner prescribed by law.

SEC. 18. No other courts than those herein specified shall be organized in this State.

SEC. 19. The governor, by and with the advice and consent of the senate, shall appoint a State attorney in each judicial circuit, whose duties shall be prescribed by law. He shall hold his office for four years from the date of his commission, and until his successor shall be appointed and qualified. The governor, by and with the advice and consent of the senate, shall appoint in each county a sheriff and clerk of the circuit court, who shall also be clerk of the county court and board of county commissioners, recorder, and *ex-officio* auditor of the county, each of whom shall hold his office for four years. Their duties shall be prescribed by law.

SEC. 20. A constable shall be elected by the registered voters in each county for

every two hundred registered voters; but each county shall be entitled to at least two constables, and no county shall have more than twelve constables. They shall perform such duties and under such instructions as shall be prescribed by law.

SEC. 21. Attorneys at law, who have been admitted to practice in any court of record in any State in the Union, or to any United States court, shall be admitted to practice in any court of this State on producing evidence of having been so admitted.

ARTICLE VIII.

ADMINISTRATIVE DEPARTMENT.

SECTION 1. There shall be a cabinet of administrative officers, consisting of a secretary of state, attorney-general, comptroller, treasurer, surveyor-general, and superintendent of public instruction, adjutant-general, and commissioner of immigration, who shall assist the governor in the performance of his duties.

SEC. 2. The secretary of state shall keep the records of official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature, and shall be the custodian of the great seal of the State.

SEC. 3. The attorney-general shall be the legal adviser of the governor and of each of the cabinet officers, and shall perform such other legal duties as the governor may direct, or as may be provided by law. He shall be reporter for the supreme court.

SEC. 4. The treasurer shall receive and keep all funds, bonds, or other securities, in such manner as may be provided by law, and shall disburse no funds, bonds, or other securities, except upon the order of the comptroller, countersigned by the governor, in such manner as shall be prescribed by law.

SEC. 5. The duties of the comptroller shall be prescribed by law.

SEC. 6. The surveyor-general shall have the administrative supervision of all matters pertaining to the public lands, under such regulations as shall be prescribed by law.

SEC. 7. The superintendent of public instruction shall have the administrative supervision of all matters pertaining to public instruction; the supervision of buildings devoted to educational purposes, and the libraries belonging to the university and the common schools. He shall organize a historical bureau for the purpose of accumulating such matter and information as may be necessary for compiling the history of the State. He shall also establish a cabinet of minerals and other natural productions.

SEC. 8. The adjutant-general shall, under the orders of the governor, have the administrative supervision of the military department, and the supervision of State prison, and of the quarantine of the coast, in such manner as shall be prescribed by law.

SEC. 9. The commissioner of immigration shall organize a bureau of immigration for the purposes of furnishing information and for the encouragement of immigration. The office of commissioner of immigration shall expire at the end of fifteen years from the ratification of this constitution, but the legislature shall have power to continue it by law.

SEC. 10. Each officer of the cabinet shall make a full report of his official acts, of the receipts and expenditures of his office, and of the requirements of the same, to the governor, at the beginning of each regular session of the legislature, or whenever the governor shall require it. Such reports shall be laid before the legislature by the governor at the beginning of each regular session thereof. Either house of the legislature may at any time call upon any cabinet officer for information required by it.

ARTICLE IX.

EDUCATION.

SECTION 1. It is the paramount duty of the State to make ample provision for the education of all the children residing within its borders, without distinction or preference.

SEC. 2. The legislature shall provide a uniform system of common schools, and a

university, and shall provide for the liberal maintenance of the same. Instruction in them shall be free.

SEC. 3. There shall be a superintendent of public instruction, whose term of office shall be four years, and until the appointment and qualification of his successor. He shall have general supervision of the educational interests of the State. His duties shall be prescribed by law.

SEC. 4. The common-school fund, the interest of which shall be exclusively applied to the support and maintenance of common schools and purchase of suitable libraries and apparatus therefor, shall be derived from the following sources:

The proceeds of all lands that have been or may hereafter be granted to the State by the United States for educational purposes; donations by individuals for educational purposes; appropriations by the State; the proceeds of lands or other property which may accrue to the State by escheat to forfeiture; the proceeds of all property granted to the State, when the purpose of such grant shall not be specified; all moneys which may be paid as an exemption from military duty; all fines collected under the penal laws of this State; such portion of the *per-capita* tax as may be prescribed by law for educational purposes; twenty-five per centum of the sales of public lands which are now or hereafter may be owned by the State.

SEC. 5. A special tax of not less than one mill on the dollar of all taxable property in the State, in addition to the other means provided, shall be levied and apportioned annually for the support and maintenance of common schools.

SEC. 6. The principal of the common-school fund shall remain sacred and inviolate.

SEC. 7. Provision shall be made by law for the distribution of the common-school fund among the several counties of the State in proportion to the number of children residing therein between the ages of four and twenty-one years.

SEC. 8. Each county shall be required to raise annually by tax, for the support of common schools therein, a sum not less than one-half the amount apportional to each county for that year from the income of the common-school fund. Any school-district neglecting to establish and maintain for at least three months in each year such school or schools as may be provided by law for such district shall forfeit its portion of the common-school fund during such neglect.

SEC. 9. The superintendent of public instruction, secretary of state, and attorney-general, shall constitute a body-corporate, to be known as the board of education of Florida. The superintendent of public instruction shall be president thereof. The duties of the board of education shall be prescribed by the legislature.

ARTICLE X.

HOMESTEAD.

SECTION 1. A homestead, to the extent of one hundred and sixty acres of land, or the half of one acre within the limits of any incorporated city or town, owned by the head of a family, residing in this State, together with one thousand dollars in value of personal property, and the improvements on the real estate, shall be exempted from forced sale under any process of law, and the real estate shall not be alienable without the joint consent of husband and wife, when that relation exists. But no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon, or for house, field, or other labor performed on the same. The exemption herein provided for in a city or town shall not extend to more improvements or buildings than the residence and business houses of the owner.

SEC. 2. In addition to the exemption provided for in the first section of this article, there shall be and remain exempt from sale by any legal process in this State, to the head of a family residing in this State, such property as he or she may select to the amount of one thousand dollars; said exemption in this section shall only prevent the sale of property in cases where the debt was contracted, liability incurred, or judgment obtained before the 10th day of May, A. D. 1865. Nothing herein con-

tained shall be so construed as to exempt any property from sale for payment of the purchase-money of the same, or for the payment of taxes or labor.

SEC. 3. The exemptions provided for in sections one and two of this article shall accrue to the heirs of the party having enjoyed or taken the benefit of such exemption, and the exemption provided for in section one of this article shall apply to all debts except as specified in said section, no matter when or where the debt was contracted or liability incurred.

ARTICLE XI.

PUBLIC INSTITUTIONS.

SECTION 1. Institutions for the benefit of the insane, blind, and deaf, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be provided by law.

SEC. 2. A State prison shall be established and maintained in such a manner as may be fixed by law. Provision may be made by law for the establishment and maintenance of a house of refuge for juvenile offenders, and the legislature shall have power to establish a home and workhouse for common vagrants.

SEC. 3. The respective courts of the State shall provide in the manner fixed by law for those of the inhabitants who, by reason of age, infirmity, or misfortunes, may have claims upon the aid and sympathy of society.

ARTICLE XII.

MILITIA.

SECTION 1. All able-bodied male inhabitants of this State, between the ages of eighteen and forty-five years, who are citizens of the United States, or have declared their intention to become citizens thereof, shall constitute the militia of the State, but no male citizen of whatever religious creed or opinion shall be exempt from military duty except upon such conditions as may be prescribed by law.

SEC. 2. The legislature shall provide by law for organizing and disciplining the militia of the State, for the encouragement of volunteer corps, the safe-keeping of the public arms, and for a guard for the State prison.

SEC. 3. The adjutant-general shall have the grade of major-general. The governor, by and with the consent of the senate, shall appoint two major-generals and four brigadier-generals of militia; they shall take rank according to the date of their commissions. The officers and soldiers of the State militia, when uniformed, shall wear the uniform prescribed for the United States Army.

SEC. 4. The governor shall have power to call out the militia to preserve the public peace, to execute the laws of the State, and to suppress insurrection or repel invasion.

ARTICLE XIII.

TAXATION AND FINANCE.

SECTION 1. The legislature shall provide for a uniform and equal rate of taxation, and shall prescribe such regulations as shall secure a just valuation of all property, both real and personal, excepting such property as may be exempt by law for municipal, educational, literary, scientific, religious, or charitable purposes.

SEC. 2. The legislature shall provide for raising revenue sufficient to defray the expenses of the State for each fiscal year, and also a sufficient sum to pay the principal and interest of the existing indebtedness of the State.

SEC. 3. No tax shall be levied except in pursuance of law.

SEC. 4. No moneys shall be drawn from the treasury except in pursuance of appropriation made by law.

SEC. 5. An accurate statement of the receipts and expenditures of the public moneys shall be published with the laws of each regular session of the legislature.

SEC. 6. The legislature shall authorize the several counties and incorporated towns in the State to impose taxes for county and incorporation purposes, and for no other

purpose, and all property shall be taxed upon the principle established for State taxation. The legislature may also provide for levying a specific capitation tax on licenses. But the capitation tax shall not exceed one dollar per annum for all purposes, excepting for State, county, or municipal taxes.

SEC. 7. The legislature shall have power to provide for issuing State bonds bearing interest, for securing the debt of the State, and for the erection of State buildings, support of State institutions, and perfecting public works.

SEC. 8. No tax shall be levied upon persons for the benefit of any chartered company of the State, or for paying the interest on any bonds issued by said chartered companies, counties, or corporations, for the above-mentioned purposes, and any laws to the contrary are hereby declared null and void.

ARTICLE XIV.

CENSUS AND APPORTIONMENT.

The legislature shall, in the year one thousand eight hundred and seventy-five, and every tenth year thereafter, cause an enumeration to be made of all the inhabitants of the State; and they shall then proceed to apportion the representation among the different counties, giving to each county one representative at large, and one additional to every one thousand registered votes therein, but no county shall be entitled to more than four representatives.

The legislature shall also, after every such enumeration, proceed to fix by law the number of senators which shall constitute the senate of Florida, and which shall never be less than one-fourth nor more than one-half of the whole number of the assembly. When any senatorial district shall be composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district, and no county shall be divided in forming a district, and all counties shall remain as now organized unless changed by a two-thirds vote of both houses of the legislature.

ARTICLE XV.

SUFFRAGE AND ELIGIBILITY.

SECTION 1. Every male person of the age of twenty-one years and upwards, of whatever race, color, nationality, or previous condition, or who shall, at the time of offering to vote, be a citizen of the United States, or who shall have declared his intention to become such in conformity to the laws of the United States, and who shall have resided and had his habitation, domicile, home, and place of permanent abode in Florida for one year, and in the county for six months, next preceding the election at which he shall offer to vote, shall in such county be deemed a qualified elector at all elections under this constitution. Every elector shall, at the time of his registration, take and subscribe to the following oath:

"I, ——— ———, do solemnly swear that I will support, protect, and defend the Constitution and Government of the United States, and the constitution and government of Florida, against all enemies, foreign or domestic; that I will bear true faith, loyalty, and allegiance to the same, any ordinances or resolution of any State convention or legislation to the contrary notwithstanding: so help me God."

SEC. 2. No person under guardianship, *non compos mentis*, or insane, shall be qualified to vote at any election; nor shall any person convicted of felony be qualified to vote at any election unless restored to civil rights.

SEC. 3. At any election at which a citizen or subject of any foreign country shall offer to vote, under the provisions of this constitution, he shall present to the persons lawfully authorized to conduct and supervise such election a duly sealed and certified copy of his declaration of intention; otherwise he shall not be allowed to vote; and any naturalized citizen offering to vote, shall produce before said persons, lawfully authorized to conduct and supervise the election, his certificate of naturalization, or a duly sealed and certified copy thereof; otherwise he shall not be permitted to vote.

SEC. 4. The legislature shall have power, and shall enact the necessary laws to ex-

clude from every office of honor, power, trust, or profit, civil or military, within the State, and from the right of suffrage, all persons convicted of bribery, perjury, larceny, or of infamous crime, or who shall make, or become directly or indirectly interested in, any bet or wager, the result of which shall depend upon any election; or who shall hereafter fight a duel, or send or accept a challenge to fight, or who shall be a second to either party, or be the bearer of such challenge or acceptance; but the legal disability shall not accrue until after trial and conviction by due form of law.

SEC. 5. In all elections by the legislature the vote shall be *viva voce*, and in all elections by the people the vote shall be by ballot.

SEC. 6. The legislature at its first session after the ratification of this constitution shall by law provide for the registration, by the clerks of the circuit court in each county, of all the legally qualified voters in such county, and for the returns of elections; and shall also provide that after the completion, from time to time, of such registration, no person not duly registered according to law shall be allowed to vote.

SEC. 7. The legislature shall enact laws requiring educational qualifications for electors after the year one thousand eight hundred and eighty, but no such laws shall be made applicable to any elector who may have registered or voted at any election previous thereto.

ARTICLE XVI.

SCHEDULE.

SECTION 1. That all ordinances and resolutions heretofore passed by any convention of the people, and all acts and resolutions of the legislature, conflicting or inconsistent with the Constitution of the United States, and the statutes thereof, and with this constitution, and in derogation of the existence or position of the State as one of the States of the United States of America, are hereby declared null and void, and of no effect.

SEC. 2. That all acts and resolutions of the general assembly, and all official acts of the civil officers of the State, not inconsistent with the provisions of the Constitution and statutes of the United States, or with this constitution, or with any ordinance or resolution adopted by this convention, and which have not been, and are not by this constitution, annulled, are in force, and shall be considered and esteemed as the laws of the State until such acts or resolutions shall be repealed by the legislature of the State, or this convention.

SEC. 3. All laws of the State passed by the so-called general assembly since the 10th day of January, A. D. 1868, not conflicting with the word and spirit of the Constitution and laws of the United States, or with this constitution, shall be valid; all writs, acts, proceedings, judgments, and decrees of the so-called courts of the State, when actual service was made, as the defendant, all executions and sales made thereunder, and all acts, orders, and proceedings of the judges of probate, and of executors, administrators, guardians, and trustees, provided they were in conformity with the laws then in force, and did not conflict with the Constitution and laws of the United States and this constitution, shall be valid; the sales of the property or effects of deceased persons shall not prevent the widow from claiming said property in kind, in whosesoever hands the same may be found, where the sale had not been made for the purpose of paying the debts of deceased, and where other than lawful money of the United States was obtained for said property.

Nothing herein contained shall be so construed as to make any one who was an officer of any court, or who acted under the authority of any court, individually liable, provided they acted strictly in accordance with what was then considered the law of the State, and not conflicting with the Constitution and laws of the United States.

All fines, penalties, forfeitures, obligations, and escheats heretofore accruing to the State of Florida shall continue to accrue to the use of the State.

All recognizances heretofore taken shall remain valid, and all bonds executed to the governor of the State of Florida, either before or since the 10th day of January, A. D. 1861, or to any other officer of the State, in his official capacity, shall be of full force and virtue, for the uses therein respectively expressed, and may be sued for and

recovered accordingly, unless they were contrary to the laws of the United States or to this constitution, or to any ordinance or resolution adopted by the convention; also, all criminal prosecutions which have arisen may be prosecuted to judgment and execution in the name of the State.

All actions at law or suits in chancery, or any proceedings pending in the courts of this State, either prior to or subsequent to the 10th day of January, A. D. 1861, shall continue in all respects valid, and may be prosecuted to judgment and decree.

All judgments and decrees rendered in civil causes in any of the courts of the State during the period of time above specified are hereby declared of full force, validity, and effect: *Provided*, That, unless otherwise provided in this constitution, the statute of limitation shall not be pleaded upon any claim in the hands of any person for the period of time between the 10th day of January, A. D. 1861, and the 25th day of October, 1865, whether proceedings at law had been commenced before the 25th day of October, 1865, or not: *Provided, further*, That all claims of widows, minors, and decedents, which were not barred by the statutes of this State on the 10th day of January, 1861, shall be considered good and valid for the period of two years from the ratification of this constitution.

SEC. 4. That State treasury notes, all bonds issued, and all other liabilities contracted by the State of Florida, or any county or city thereof, on and after the 10th day of January, A. D. 1861, and before the 25th day of October, A. D. 1865, except such liabilities as may be due to the seminary or school fund, be and are declared null and void, and the legislature shall have no power to provide for the payment of the same or any part thereof, but this shall not be construed so as to invalidate any authorized liabilities of the State contracted prior to the 10th day of January, A. D. 1861, or subsequent to the 25th day of October, A. D. 1865.

SEC. 5. No money shall ever be appropriated by this State to re-imburse purchasers of United States land who purchased the same of the State of Florida.

SEC. 6. All proceedings, decisions, or actions accomplished by civil or military officers acting under authority of the United States subsequent to the 10th day of January, 1861, and prior to the final restoration of the State to the Government of the United States, are hereby declared valid, and shall not be subject to adjudication in the courts of this State; nor shall any person acting in the capacity of a soldier or officer of the United States, civil or military, be subject to arrest for any act performed by him pursuant to authorized instructions from his superior officers during the period of time above designated.

SEC. 7. That in all cases where judgments have been obtained against citizens of the State after the 10th day of January, 1861, previous to the 25th day of October, 1865, and where actual service was not made on the person of any defendant, such defendant, not served with process, may appear in court within one year after the adoption of this constitution, and make oath that injustice has been done and that he or she has a good and valid defence, stating the defence, and upon making such oath and filing said defence, the proceedings in the judgment shall cease until the defence is heard.

ARTICLE XVII.

MISCELLANEOUS.

SECTION 1. Any person debarred from holding office in the State of Florida by the third section of the fourteenth article of the proposed amendment to the Constitution of the United States, which is as follows: "No person shall be a Senator or Representative in Congress, or elector of President or Vice-President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability," is hereby debarred from holding office in this State: *Provided*, That whenever such disability from holding office shall be removed from any person by the Congress of the United States, the removal of such

disability shall also apply to this State, and such person shall be restored, in all respects, to the rights of citizenship as herein provided for electors.

SEC. 2. Any person elected to the Senate of the United States by the legislature of this State, or any person elected by the people, or appointed to office by the governor of the State, or by any officer of the State, under the provisions of the constitution adopted by the convention of the people, convened on the 25th day of October, 1865, shall not be empowered to hold such office after the same position or office shall have been filled by election or appointment under the provisions of this constitution: *Provided*, That all officers holding office under the provisions of the constitution adopted the 25th day of October, A. D. 1865, and not provided for in this constitution, shall continue to hold their respective offices, and discharge the duties thereof, until the governor shall, by his proclamation, declare such offices vacant.

SEC. 3. The several judicial circuits of the circuit courts shall be as follows: The first judicial circuit shall be composed of the counties of Escambia, Santa Rosa, Walton, Holmes, Washington, and Jackson; the second judicial circuit shall be composed of the counties of Gadsden, Liberty, Calhoun, Franklin, Leon, Wakulla, and Jefferson; the third judicial circuit shall be composed of the counties of Madison, Taylor, La Fayette, Hamilton, Suwannee, and Columbia; the fourth judicial circuit shall be composed of the counties of Nassau, Duval, Baker, Bradford, Clay, and Saint John's; the fifth judicial circuit shall be composed of the counties of Putnam, Alachua, Levy, Marion, and Sumter; the sixth judicial circuit shall be composed of the counties of Hernando, Hillsborough, Manatee, Polk, and Monroe; the seventh judicial circuit shall be composed of the counties of Volusia, Brevard, Orange, and Dade.

SEC. 4. The salary of the governor of the State shall be $5,000 per annum; that of the chief-justice shall be $4,500; that of each associate justice shall be $4,000; that of each judge of the circuit court shall be $3,500; that of the lieutenant-governor shall be $2,500; that of each cabinet officer shall be $3,000. The pay of the members of the senate and house of representatives shall be $500 per annum, and in addition thereto ten cents per mile for each mile travelled from their respective places of residence to the capital, and the same to return. But such distances shall be estimated by the shortest general public thoroughfare. All other officers of the State shall be paid by fees as per diem fixed by law.

SEC. 5. The legislature shall appropriate $2,000 each year for the purchase of such books for the supreme court library as the said court shall direct.

SEC. 6. The salary of each officer shall be payable quarterly upon his own requisition.

SEC. 7. The tribe of Indians located in the southern portion of the State, and known as the Seminole Indians, shall be entitled to one member in each house of the legislature. Such member shall have all the rights, privileges, and remuneration as other members of the legislature. Such members shall be elected by the members of their tribe, in the manner prescribed for all elections by this constitution. The tribe shall be represented only by a member of the same, and in no case by a white man: *Provided*, That the representatives of the Seminole Indians shall not be a bar to the representation of any county by the citizens thereof.

SEC. 8. The legislature may at any time impose such tax on the Indians as they may deem proper; and such imposition of tax shall constitute the Indians citizens, and they shall thenceforward be entitled to all the privileges of other citizens, and thereafter be barred of special representation.

SEC. 9. In addition to other crimes and misdemeanors for which an officer may be impeached and tried, shall be included drunkenness and other dissipations; incompetency, malfeasance in office, gambling, or any conduct detrimental to good morals shall be considered sufficient cause for impeachment and conviction. Any officer, when impeached by the assembly, shall be deemed under arrest, and shall be disqualified from performing any of the duties of his office until acquitted by the senate. But any officer so impeached and in arrest may demand his trial by the senate within ten days of the date of his impeachment.

SEC. 10. The following shall be the oath of office for each officer in the State,

including members of the legislature: "I do solemnly swear that I will support, protect, and defend the Constitution and Government of the United States, and of the State of Florida, against all enemies, domestic or foreign, and that I will bear true faith, loyalty, and allegiance to the same, and that I am entitled to hold office under this constitution; that I will well and faithfully perform all the duties of the office of ———, which I am about to enter: so help me God."

SEC. 11. The legislature may provide for the donation of the public lands to actual settlers; but such donation shall not exceed one hundred and sixty acres to any one person.

SEC. 12. All county officers shall hold their respective offices at the county seats of their counties.

SEC. 13. The legislature shall provide for the speedy publication of all statutes and laws of general nature. All decisions of the supreme court, and all laws and judicial decisions, shall be for free publication by any person. But no judgment of the supreme court shall take effect and be operative until the opinion of the court in such case shall be filed with the clerk of said court.

SEC. 14. The legislature shall not create any office, the term of which shall be longer than four years.

SEC. 15. The governor, cabinet, and supreme court shall keep their offices at the seat of government. But in case of invasion or violent epidemics, the governor may direct that the offices of the government shall be removed temporarily to some other place. The session of the legislature may be adjourned for the same cause to some other place; but in such case of removal all the departments of the government shall be removed to one place. But such removal shall not continue longer than the necessity for the same shall continue.

SEC. 16. A plurality of votes given at an election by the people shall constitute a choice when not otherwise provided by this constitution.

SEC. 17. The term of the State officers elected at the first election under this constitution, not otherwise provided for, shall continue until the first Tuesday of January, A. D. 1873, and until the installation of their successors, excepting the members of the legislature.

SEC. 18. Each county and incorporated city shall make provision for the support of its own officers, subject to such regulations as may be prescribed by law. Each county shall make provision for building a court-house and jail, and for keeping the same in good repair.

SEC. 19. If at the meeting of the senate at any session the lieutenant-governor has not been qualified or is not present, the senate shall elect one of its members as temporary president before proceeding to other business.

SEC. 20. The legislature shall at the first session adopt a seal for the State, and such seal shall be of the size of the American silver dollar. But said seal shall not again be changed after its adoption by the legislature; and the governor shall, by his proclamation, announce that the said seal has become the great seal of the State.

SEC. 21. The governor, lieutenant-governor, and all the State officers elected by the people shall be installed on the first day of the meeting of the legislature, and immediately assume the duties of their respective offices.

SEC. 22. The governor and lieutenant-governor shall have been, before their election to office, nine years a citizen of the United States, and three years a citizen of the State. All other officers shall have been one year a citizen of the State, and six months a citizen of the county from which they are elected or appointed. No person shall be eligible to any office unless he be a registered voter.

SEC. 23. The governor or any State officer is hereby prohibited from giving certificates of election or other credentials to any person as having been elected to the House of Representatives of the United States Congress, or the United States Senate, who has not been two years a citizen of the State, and nine years a citizen of the United States, and a registered voter.

SEC. 24. The property of all corporations, whether heretofore or hereafter incorporated, shall be subject to taxation, unless such corporation be for religious, educational, or charitable purposes.

SEC. 25. All bills, bonds, notes, or evidences of debt outstanding and unpaid, given for or in consideration of bonds or treasury-notes of the so-called Confederate States, or notes and bonds of this State paid and redeemable in the bonds and notes of the Confederate States, are hereby declared null and void, and no action shall be maintained thereon in the courts of this State.

SEC. 26. It shall be the duty of the courts to consider that there is a failure of consideration, and it shall be so held by the courts of this State, upon all deeds or bills of sale given for slaves with covenant or warrantee of title or soundness, or both; upon all bills, bonds, notes, or other evidences of debt, given for or in consideration of slaves, which are now outstanding and unpaid, and no action shall be maintained thereon; and all judgments and decrees rendered in any of the courts of this State since the 10th day of January, A. D. 1861, upon all deeds or bills of sale, or upon any bond, bill, note, or other evidence of debt based upon the sale or purchase of slaves, are hereby declared set aside, and the plea of failure of consideration shall be held a good defence in all actions to said suit; and that when money was due previous to the 10th day of January, 1861, and slaves were given in consideration for such money, these shall be deemed a failure of consideration for the debt: *Provided*, That settlements and compromises of such transaction made by the parties thereto shall be respected.

SEC. 27. All persons who, as alien enemies under the sequestration act of the so-called confederate congress, and now resident of the State, had property sequestered and sold by any person acting under a law of the so-called Confederate States, or the State of Florida, subsequent to the 10th day of January, A. D. 1861, and prior to the 1st day of January, 1865, shall be empowered to file a bill in equity in the circuit court of the State, and shall be entitled to obtain judgment against the State for all damages sustained by said sale and detention of property. The court shall estimate the damages upon the assessed valuation of the property in question in the year A. D. 1870, with interest at six per cent. from the time the owner was deprived of the same.

But all judgments against the State shall be paid only in certificates of indebtedness, redeemable in State lands. Said certificates shall be issued by the governor, countersigned by the secretary of state and by the comptroller, upon the decree of the court. Oral testimony shall be sufficient to establish the fact of a sale having been made.

SEC. 28. There shall be no civil or political distinction in this State on account of race, color, or previous condition of servitude, and the legislature shall have no power to prohibit by law any class of persons, on account of race, color, or previous condition of servitude, to vote or hold any office, beyond the conditions prescribed by this constitution.

SEC. 29. The apportionment for the assembly shall be as follows: Escambia, two; Santa Rosa, one; Walton, one; Holmes, one; Washington, one; Jackson, three; Calhoun, one; Gadsden, two; Franklin, one; Liberty, one, Wakulla, one; Leon, four; Jefferson, three; Madison, two; Taylor, one; Hamilton, one; Suwannee, one; La Fayette, one; Alachua, two; Columbia, two; Baker, one; Bradford, one; Nassau, one; Duval, two; Clay, one; Saint John's, one; Putnam, one; Marion, two; Levy, one; Volusia, one; Orange, one; Brevard, one; Dade, one; Hillsborough, one; Hernando, one; Sumter, one; Polk, one; Manatee, one; and Monroe, one. There shall be twenty-four senatorial districts, which shall be as follows, and shall be known by their respective numbers from one to twenty-four inclusive: The first senatorial district shall be composed of Escambia county; the second, of Santa Rosa and Walton; the third, of Jackson; the fourth, of Volusia and Washington; the fifth, of Calhoun and Franklin; the sixth, of Gadsden; the seventh, of Liberty and Wakulla; the eighth, of Leon; the ninth, of Jefferson; the tenth, of Madison; the eleventh, of Hamilton and Suwannee; the twelfth, of La Fayette and Taylor; the thirteenth, of Alachua and Levy; the fourteenth, of Columbia; the fifteenth, of Bradford and Clay; the sixteenth, of Baker and Nassau; the seventeenth, of Saint John's and Putnam; the eighteenth, of Duval; the nineteenth, of Marion; the twentieth, of Volusia and Orange; the twenty-first, of Dade and Brevard; the twenty-second, of Hillsborough and Hernando; the

twenty-third, of Sumter and Polk; the twenty-fourth, of Manatee and Monroe; and each senatorial district shall be entitled to one senator.

SEC. 30. No person shall ever be appointed a judge of the supreme court or circuit court who is not twenty-five years of age and practising attorney.

SEC. 31. The legislature shall, as soon as convenient, adopt a State emblem, having the design of the great seal of the State impressed upon a white ground, of six feet six inches fly and six feet deep.

ARTICLE XVIII.

AMENDMENTS.

Any amendment or amendments to this constitution may be proposed in either branch of the legislature; and if the same shall be agreed upon by a two-thirds vote of all the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their respective journals, with the yeas and nays thereon, and referred to the legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice; and if, in the legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a two-thirds vote of all the members elected to each house, then it should be the duty of the legislature to submit such proposed amendment or amendments to the people in such manner and at such time as the legislature may prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the legislature voting thereon, such amendment or amendments shall become a part of the constitution.

SEC. 2. If at any time the legislature, by a vote of a majority of all the members elected to each of the two houses, shall determine that it is necessary to cause a revision of this entire constitution, such determination shall be entered on their respective journals, with the yeas and nays thereon, and referred to the legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice.

And if in the legislature next chosen aforesaid such proposed revision shall be agreed by a majority of all the members elected to each house, then it shall be the duty of the legislature to recommend to the electors of the next election for members of the legislature to vote for or against a convention; and if it shall appear that a majority of the electors voting at such election shall have voted in favor of calling a convention, the legislature shall, at its next session, provide by law for a convention, to be holden within six months after the passage of such law, and such convention shall consist of a number of members not less than both branches of the legislature.

In determining what is a majority of the electors voting at such election, reference shall be had to the highest number of votes cast at such election for the candidates for any office or on any question.

Done in open convention. In witness whereof, we, the undersigned delegates, representing the people of Florida, in convention assembled, do hereunto affix our names this twenty-fifth day of February, one thousand eight hundred and sixty-eight, and of the Independence of the United States the ninety-second, and the secretary doth countersign the same.

HORATIO JENKINS, JR., *President.*

S. CONANT, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1868.*

RATIFIED 1870.

ARTICLE I. The salary of the governor of the State shall be three thousand five hundred dollars per annum; that of each justice of the supreme court shall be three thousand dollars; that of each judge of the circuit courts shall be two thousand five hundred dollars; that of each cabinet officer shall be two thousand dollars; that of the lieutenant-governor shall be five hundred dollars, and he shall receive the same mileage as members of the legislature. The pay of members of the legislature shall be a per diem, to be fixed by law, for each day's actual attendance, and in addition thereto ten cents per mile for travelling-expenses for each mile from their respective places of residence to the capital, estimated by the shortest thoroughfare, and the same to return. All other officers of the State shall be paid by fees or per diem, fixed by law. No legislature shall increase its own pay.

ART. II. The several members of the cabinet of administrative officers shall be elected by the people.

ART. III. The sixth and seventh judicial districts are hereby abolished, and the limits of the first, second, third, fourth, and fifth judicial districts shall be defined by law.

ART. IV. The offices of surveyor-general and commissioner of immigration are hereby consolidated under the name of commissioner of lands and immigration.

ART. V. The thirteenth section of the sixth article of the constitution is hereby abrogated.

ART. VI. The third, fifth, and twenty-seventh sections of the sixteenth article of the constitution are hereby abrogated.

ART. VII. The number of terms of the supreme court, and the time of holding the same, shall be fixed by law.

ART. VIII. The legislature shall have power to prescribe regulations for calling into the supreme court a judge of the circuit court, to hear and determine any matter pending before the court, in the place of any justice thereof who shall be disqualified or disabled in such case from interest or other cause.

ART. IX. That the following portion of section nine, Article XVI, of the constitution is hereby abrogated:

"Any officer when impeached by the assembly shall be deemed under arrest, and shall be disqualified from performing any of the duties of his office until acquitted by the senate; but any officer so impeached and in arrest may demand his trial by the senate within one year from the date of his impeachment."

RATIFIED 1875.

ARTICLE I. Section two of article four of the constitution is hereby amended so as to read as follows:

SEC. 2. From and after the first Tuesday after the first Monday in January, A. D. one thousand eight hundred and seventy-seven, the regular sessions of the legislature shall be held biennially, commencing on said day and on the corresponding day of every second year thereafter, but the governor may convene the same in extra session by his proclamation.

ART. II. Section twenty-nine of article four of the constitution is hereby amended so as to read as follows:

SEC. 29. The assembly shall have the sole power of impeachment, but a vote of two-thirds of all the members present shall be required to impeach any officer, and all impeachments shall be tried by the senate. When sitting for that purpose the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present. The senate may adjourn to a fixed day for the trial of any impeachment, and may sit for the purpose of such trial

*These amendments were passed at two successive sessions of the legislature, and then ratified by the people.

whether the assembly be in session or not, but the time fixed for such trial shall not be more than six months from the time articles of impeachment shall be preferred by the assembly. The chief-justice shall preside at all trials by impeachment except in the trial of the chief-justice, when the lieutenant-governor shall preside. The governor, lieutenant-governor, members of the cabinet, justices of the supreme court, and judges of the circuit court, shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust, or profit under the State, but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other officers who shall have been appointed to office by the governor, and by and with the consent of the senate, may be removed from office upon the recommendation of the governor, and consent of the senate, but they shall nevertheless be liable to indictment, trial, and punishment according to law for any misdemeanor in office. All other civil officers shall be tried for misdemeanor in office in such manner as the legislature may provide.

ART. III. Section seven of article twelve of the constitution is hereby amended so as to read as follows:

SEC 7. The legislature shall have power to provide for issuing State bonds bearing interest for securing the debt of the State, for the erection of State buildings, and for the support of State institutions, but the credit of the State shall not be pledged or loaned to any individual company, corporation, or association; nor shall the State become a joint owner or stockholder in any company, association, or corporation. The legislature shall not authorize any county, city, borough, township, or incorporated district to become a stockholder in any company, association, or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution, or individual.

ART. IV. Section five of article six of the constitution is hereby amended so as to read as follows:

SEC. 5. The supreme court shall have appellate jurisdiction in all cases at law and in equity commenced in circuit courts and of appeal from the circuit court in cases arising in the county court as a court of probate, and in the management of the estates of infants, and in all criminal cases commenced in the circuit court. The court shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, habeas corpus, and also all writs necessary or proper to the complete exercise of its jurisdiction. Each of the justices shall have the power to issue writs of habeas corpus to any part of the State upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the supreme court, or any justice thereof, or before any circuit judge.

Section eight of article six of the constitution is hereby amended so as to read as follows:

SEC. 8. The circuit courts shall have original jurisdiction in all cases in equity, also in all cases at law in which the demand or the value of the property involved exceeds one hundred dollars, and of all cases involving the legality of any tax assessment, toll, or municipal fine, and of the action of forcible entry and unlawful detainer, and of actions involving the titles or right of possession of real estate, and of all criminal cases, except such as may be cognizable by law by inferior courts. They shall have appellate jurisdiction of matters pertaining to the probate jurisdiction and the estates and interests of minors in the county courts, and of such other matters as may be provided by law, and final appellate jurisdiction in all civil cases arising in the court of a justice of the peace in which the amount or value of property involved is twenty-five dollars and upwards, and of misdemeanors tried before any justice's or mayor's court. The circuit courts and judges shall have power to issue writs of mandamus, injunction, quo warranto, certiorari, habeas corpus, and all writs proper and necessary to the complete exercise of their jurisdiction.

Section ten of article six of the constitution is hereby abrogated.

Section eleven of article six of the constitution is hereby amended so as to read as follows:

SEC. 11. The county court shall have power to take probate of wills, to grant

letters testamentary, and of administration and guardianship, to attend to the settlement of the estates of decedents and of minors, and to discharge the duties usually pertaining to courts of probate, subject to the direction and supervision of the appellate and equity jurisdiction of the circuit court as may be provided by law. And the county judges shall have and exercise the civil and criminal jurisdiction of justices of the peace. They may also have jurisdiction of such proceedings relating to the forcible entry or unlawful detention of lands and tenements subject to the appellate jurisdiction of the circuit court as may be provided by law.

Section fifteen of article six of the constitution is hereby amended so as to read as follows:

SEC. 15. The governor shall appoint as many justices of the peace as he may deem necessary. Justices of the peace shall have jurisdiction in civil actions at law in cases in which the amount or value involved does not exceed one hundred dollars; and in criminal cases their powers shall be fixed by law. Their powers, duties, and responsibilities shall be regulated by law. They may hold their offices for the term of four years, subject to removal by the governor for reasons satisfactory to him.

ART. V. Section seven of article six of the constitution is hereby amended so as to read as follows:

SEC. 7. There shall be five circuit judges appointed by the governor and confirmed by the senate, who shall hold their respective offices for the term of six years from the time of their qualification. The State shall be divided into five judicial circuits as defined in this constitution, and the judge of each circuit shall reside in the circuit to which he shall be appointed. Each judge shall hold the terms of the court at such times and places as may be prescribed by law, and he may hold special terms with or without juries. The chief-justice may, in his discretion, order a temporary exchange of circuits by the respective judges, or designate any judge to hold a general or special term, or part of a term, in any other circuit than that one in which he resides.

Section three of article sixteen of the constitution is hereby amended so as to read as follows:

SEC. 3. The several judicial circuits of the circuit courts shall be as follows:

The first judicial circuit shall be composed of the counties of Escambia, Santa Rosa, Walton, Holmes, Washington, Jackson, Calhoun, and Franklin.

The second judicial circuit shall be composed of the counties of Liberty, Gadsden, Leon, Wakulla, Jefferson, Madison, Taylor, and La Fayette.

The third judicial circuit shall be composed of the counties of Hamilton, Suwannee, Columbia, Baker, Bradford, Alachua, and Levy.

The fourth judicial circuit shall be composed of the counties of Nassau, Duval, Clay, Saint Johns, Putnam, Volusia, Orange, Brevard, and Dade.

The fifth judicial circuit shall be composed of the counties of Marion, Sumpter, Hernando, Hillsborough, Polk, Manatee, and Monroe.

ART. VI. Section twelve of article six of the constitution is hereby amended so as to read as follows:

SEC. 12. Grand and petit jurors shall be taken from the registered voters of the respective counties. The number of jurors for the trial of causes in any court may be fixed by law.

ART. VII. Sections seven and eight of article sixteen of the constitution are hereby abrogated.

ART. VIII. Section twenty-four of article sixteen of the constitution is hereby amended so as to read as follows:

SEC. 24. The property of all corporations, whether heretofore or hereafter incorporated, shall be subject to taxation, unless such property be held and used exclusively for religious, educational, or charitable purposes.

ART. IX. Section twenty-two of article five of the constitution shall read as follows:

SEC. 22. The governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto.

ART. X. Section fourteen of article five of the constitution is hereby amended so as to read as follows:

SEC. 14. A lieutenant-governor shall be elected at the same time and places and in the same manner as the governor, whose term of office and eligibility shall also be the same. He shall be the president of the senate, but shall only have a casting vote therein. In the case of the impeachment of the governor or his removal from office, death, inability to discharge his official duties, or resignation, the power and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability shall cease. In the case of the impeachment of the lieutenant-governor or his removal from office, death, inability to discharge his official duties, or resignation, the power and duties of the office shall devolve upon the president *pro tempore* of the senate.

In case a vacancy shall occur both in the offices of governor and lieutenant-governor, the legislature shall at its next session order an election to fill such vacancies. But the governor shall not, without the consent of the legislature, be out of the State in time of war.

Section fifteen of article five of the constitution is hereby abrogated.

ART. XI. Section sixteen of article five of the constitution is hereby amended so as to read as follows:

SEC. 16. The governor may at any time require the opinion of the justices of the supreme court as to the interpretation of any portion of this constitution upon any question affecting his executive powers and duties, and the justices shall render such opinion in writing.

GEORGIA.

CHARTER OF GEORGIA—1732.*

GEORGE the second, by the grace of God, of Great Britain, France and Ireland, king, defender of the faith, and so forth. To all to whom these presents shall come, greeting.

Whereas we are credibly informed, that many of our poor subjects are, through misfortunes and want of employment, reduced to great necessity, insomuch as by their labor they are not able to provide a maintenance for themselves and families; and if they had means to defray their charges of passage, and other expences, incident to new settlements, they would be glad to settle in any of our provinces in America where by cultivating the lands, at present waste and desolate, they might not only gain a comfortable subsistence for themselves and families, but also strengthen our colonies and increase the trade, navigation and wealth of these our realms. And whereas our provinces in North America, have been frequently ravaged by Indian enemies; more especially that of South-Carolina, which in the late war, by the neighboring savages, was laid waste by fire and sword, and great numbers of English inhabitants, miserably massacred, and our loving subjects who now inhabit them, by reason of the smallness of their numbers, will in case of a new war, be exposed to the late calamities; inasmuch as their whole southern frontier continueth unsettled, and lieth open to the said savages—And whereas we think it highly becoming our crown and royal dignity, to protect all our loving subjects, be they never so distant from us; to extend our fatherly compassion even to the meanest and most infatuated of our people, and to relieve the wants of our above mentioned poor subjects; and that it will be highly conducive for accomplishing those ends, that a regular colony of the said poor people be settled and established in the southern territories of Carolina. And whereas we have been well assured, that if we will be graciously pleased to erect and settle a corporation, for the receiving, managing and disposing of the contributions of our loving subjects; divers persons would be induced to contribute to the purposes aforesaid—Know ye therefore, that we have, for the considerations aforesaid, and for the better and more orderly carrying on of the said good purposes; of our special grace, certain knowledge and mere motion, willed, ordained, constituted and appointed, and by these presents, for us, our heirs and successors, do will, ordain, constitute, declare and grant, that our right trusty and well beloved John, lord-viscount Purcival, of our kingdom of Ireland, our trusty and well beloved Edward Digby, George Carpenter, James Oglethorpe, George Heathcote, Thomas Tower, Robert Moore, Robert Hucks, Roger Holland, William Sloper, Francis Eyles, John Laroche, James Vernon, William Beletha, esquires, A. M. John Burton, B. D. Richard Bundy, A. M. Arthur Bedford, A. M. Samuel Smith, A. M. Adam Anderson and Thomas Corane, gentlemen; and such other persons as shall be elected in the manner herein after mentioned, and their successors to be elected in the manner herein after directed; be, and shall be one body politic and corporate, in deed and in name, by the name of the Trustees for establishing the colony of Georgia in America; and them and their successors by the same name, we do, by these presents, for us, our heirs and suc-

* Georgia was included in a proprietary charter granted to the lords proprietors of Carolina in 1662–'63, for which a provincial charter was substituted in 1719. The charter of Georgia, as an independent Colony, was granted to a company organized by James Oglethorpe, esq., who desired to provide in the New World homes for indigent persons. This charter was surrendered June 20, 1752, and a provincial government, with a governor and council, was substituted, on the recommendation of the lords commissioners for trade and plantations.

cessors, really and fully make, ordain, constitute and declare, to be one body politic in deed and in name forever; and that by the same name, they and their successors, shall and may have perpetual succession; and that they and their successors by that name shall and may forever hereafter, be persons able and capable in the law, to purchase, have, take, receive and enjoy, to them and their successors, any manors, messuages, lands, tenements, rents, advowsons, liberties, privileges, jurisdictions, franchises, and other hereditaments whatsoever, lying and being in Great Britain, or any part thereof, of whatsoever nature, kind or quality, or value they be, in fee and in perpetuity, not exceeding the yearly value of one thousand pounds, beyond reprises; also estates for lives, and for years, and all other manner of goods, chattels and things whatsoever they be; for the better settling and supporting, and maintaining the said colony, and other uses aforesaid; and to give, grant, let and demise the said manors, messuages, lands, tenements, hereditaments, goods, chattels and things whatsoever aforesaid, by lease or leases, for term of years, in possession at the time of granting thereof, and not in reversion, not exceeding the term of thirty-one years, from the time of granting thereof; on which in case no fine be taken, shall be reserved the full, and in case a fine be taken, shall be reserved at least a moiety of the value that the same shall reasonably and *bona fide* be worth at the time of such demise; and that they and their successors, by the name aforesaid, shall and may forever hereafter, be persons able, capable in the law, to purchase, have, take, receive, and enjoy, to them and their successors, any lands, territories, possessions, tenements, jurisdictions, franchises and hereditaments whatsoever, lying and being in America, of what quantity, quality or value whatsoever they be, for the better settling and supporting and maintaining the said colony; and that by the name aforesaid they shall and may be able to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all courts and places whatsoever, and before whatsoever judges, justices, and other officers, of us, our heirs and successors, in all and singular actions, plaints, pleas, matters, suits and demands, of what kind, nature or quality soever they be; and to act and to do, all matters and things in as ample manner and form as any other our liege subjects of this realm of Great Britain, and that they and their successors forever hereafter, shall and may have a common seal, to serve for the causes and businesses of them and their successors; and that it shall and may be lawful for them and their successors, to change, break, alter and make new the said seal, from time to time, and at their pleasure, and as they shall think best. And we do further grant, for us, our heirs and successors, that the said corporation, and the common council of the said corporation, hereinafter by us appointed, may from time to time, and at all times, meet about their affairs when and where they please, and transact and carry on the business of the said corporation. And for the better execution of the purposes aforesaid, we do, by these presents, for us, our heirs and successors, give & grant to the said corporation, and their successors, that they and their successors forever, may upon the third Thursday in the month of March, yearly, meet at some convenient place to be appointed by the said corporation, or major part of them who shall be present at any meeting of the said corporation, to be had for the appointing of the said place; and that they, or two thirds of such of them, that shall be present at such yearly meeting, and at no other meeting of the said corporation, between the hours of ten in the morning and four in the afternoon of the same day, choose and elect such person or persons to be members of the said corporation, as they shall think beneficial to the good designs of the said corporation. And our further will and pleasure is, that if it shall happen that any person hereinafter by us appointed, as the common council of the said corporation, or any persons to be elected or admitted members of the said common council in the manner hereafter directed, shall die, or shall by writing under his and their hands respectively resign his or their office or offices of common council man or common council men; the said corporation, or the major part of such of them as shall be present, shall and may at such meeting, on the said third Thursday in March yearly, in manner as aforesaid, next after such death or resignation, and at no other meeting of the said corporation, into the room or place of such person or persons so dead or so resigning, elect and choose one or more such person or persons, being members of the said corporation, as to them shall seem meet: and our will is, that all and every the person or persons which shall from time to time hereafter be elected common council

men of the said corporation as aforesaid, do and shall, before he or they act as common men of the said corporation, take an oath for the faithful and due execution of their office; which oath the president of the said corporation for the time being, is hereby authorized and required to administer to such person or persons elected as aforesaid. And our will and pleasure is, that the first president of the said corporation is and shall be our trusty and well-beloved, the said Lord John Viscount Percival; and that the said president shall, within thirty days after the passing this charter, cause a summons to be issued to the several members of the said corporation herein particularly named, to meet at such time and place as he shall appoint, to consult about and transact the business of said corporation. And our will and pleasure is, and we, by these presents, for us, our heirs, and successors, grant, ordain, and direct, that the common council of this corporation shall consist of fifteen in number; and we do, by these presents, nominate, constitute, and appoint our right trusty and well-beloved John Lord Viscount Percival, our trusty and beloved Edward Digby, George Carpenter, James Oglethorpe, George Heathcote, Thomas Laroche, James Vernon, William Beletha, esqrs., and Stephen Hales, Master of Arts, to be the common council of the said corporation, to continue in the said office during their good behavior. And whereas it is our royal intention, that the members of the said corporation should be increased by election, as soon as conveniently may be, to a greater number than is hereby nominated; Our further will and pleasure is, and we do hereby, for us, our heirs and successors, ordain and direct, that from the time of such increase of the members of the said corporation, the number of the common council shall be increased to twenty-four; and that the same assembly at which such additional members of the said corporation shall be chosen, there shall likewise be elected in the manner hereinbefore directed for the election of common council men, nine persons to be the said common council men, and to make up the number twenty-four. And our further will and pleasure is, that our trusty and well beloved Edward Digby, esquire, shall be the first chairman of the common council of the said corporation; and that the said lord-viscount Purcival shall be, and continue, president of the said corporation, and that the said Edward Digby shall be and continue chairman of the common council of the said corporation, respectively, until the meeting which shall be had next and immediately after the first meeting of the said corporation, or of the common council of the said corporation respectively, and no longer; at which said second meeting, and every other subsequent and future meeting of the said corporation or of the common council of the said corporation respectively, in order to preserve an indifferent rotation of the several offices, of president of the corporation, and of chairman of the common council of the said corporation we do direct and ordain that all and every the person and persons, members of the said common council for the time being, and no other, being present at such meetings, shall severally and respectively in their turns, preside at the meetings which shall from time to time be held of the said corporation, or of the common council of the said corporation respectively: and in case any doubt or question shall at any time arise touching or concerning the right of any member of the said common council to preside at any meeting of the said corporation, or at the common council of the said corporation, the same shall respectively be determined by the major part of the said corporation, or of the common council of the said corporation respectively, who shall be present at such meeting. Provided always, that no member of the said common council having served in the offices of president of the said corporation, or of chairman of the common council of the said corporation, shall be capable of being, or of serving as president or chairman at any meeting of the said corporation, or common council of the said corporation next and immediately ensuing that in which he so served as president of the said corporation or chairman of the said common council of the said corporation respectively; unless it shall so happen that at any such meeting of the said corporation, there shall not be any other member of the said common council present. And our will and pleasure is, that at all and every of the meetings of the said corporation, or of the common council of the said corporation, the president or chairman for the time being, shall have a voice and shall vote, and shall act as a member of the said corporation or of the common council of the said corporation, at such meeting; and in case of any equality of votes, the said president or chairman for the time being, shall have a casting vote. And

our further will and pleasure is, that no president of the said corporation, or chairman of the common council of the said corporation, or member of the said common council or corporation, by us by these presents appointed, or hereafter from time to time to be elected and appointed in manner aforesaid, shall have, take, or receive, directly or indirectly, any salary, fee, perquisite, benefit or profit whatsoever, for or by reason of his or their serving the said corporation, or common council of the said corporation, or president, chairman or common council-man, or as being a member of the said corporation. And our will and pleasure is, that the said herein before appointed president, chairman or common council-men, before he and they act respectively as such, shall severally take an oath for the faithful and due execution of their trust, to be administered to the president by the Chief Baron of our Court of Exchequer, for the time being, and by the president of the said corporation to the rest of the common council, who are hereby authorised severally and respectively, to administer the same. And our will and pleasure is, that all and every person and persons, shall have in his or their own name or names, or in the name or names of any person or persons in trust for him or them, or for his or their benefit, any place, office or employment of profit, under the said corporation, shall be incapable of being elected a member of the said corporation; and if any member of the said corporation during such time as he shall continue a member thereof, shall in his own name or in the name of any person or persons, in trust for him or for his benefit, have, hold or exercise, accept, possess or enjoy, any office, place or employment of profit, under the said corporation, or under the common council of the said corporation—such member sha l from the time of his having, holding, exercising, accepting possessing and enjoying such office, place and employment of profit, cease to be a member of the said corporation. And we do for us, our heirs and successors, grant unto the said corporation, that they and their successors or the major part of such of them as shall be present at any meeting of the said corporation, convened and assembled for that purpose by a convenient notice thereof, shall have power from time to time, and at all times hereafter, to authorize and appoint such persons as they shall think fit to take subscriptions, and to gather and collect such moneys as shall be by any person or persons contributed for the purposes aforesaid; and shall and may revoke and make void such authorities and appointments, as often as they shall see cause so to do. And we do hereby for us, our heirs and successors, ordain and direct, that the said corporation every year lay an account in writing before the chancellor, or speaker, or commissioners, for the custody of the great seal of Great-Britain, of us, our heirs and successors; the Chief Justice of the Court of King's Bench, the Master of Rolls the Chief Justice of the Court of Common Pleas, and the chief Baron of the Exchequer of us, our heirs and successors for the time being, or any two of them; of all moneys and effects by them received or expended, for carrying on the good purposes aforesaid. And we do hereby, for us, our heirs and successors, give and grant unto the said corporation, and their successors, full power and authority to constitute, ordain and make, such and so many by-laws, constitutions, orders and ordinances, as to them, or the greater part of them, at their general meeting for that purpose, shall seem necessary and convenient for the well ordaining and governing of the said corporation; and the said by-laws, constitutions, orders and ordinances, or any of them, to alter and annul, as they or the major part of them then present shall see requisite: and in and by such by-laws, rules, orders and ordinances, to sell, impose and inflict, reasonable pains and penalties upon any offender or offenders, who shall transgress, break or violate the said by-laws, constitutions, orders and ordinances, so made as aforesaid, and to mitigate the same as they or the major part of them then present shall think convenient; which said pains and penalties, shall and may be levied, sued for, taken, retained and recovered, by the said corporation and their successors, by their officers and servants, from time to time, to be appointed for that purpose, by action of debt, or by any other lawful ways or means, to the use and behoof of the said corporation and their successors, all and singular: which by-laws, constitutions, orders and ordinances, so as aforesaid to be made, we will shall be duly observed and kept, under the pains and penalties therein to be contained, so always, as the said by-laws, constitutions, orders, and ordinances, pains and penalties, from time to time to be made and imposed, be reasonable and not

contrary or repugnant to the laws or statutes of this our realm; and that such by-laws, constitutions and ordinances, pains and penalties, from time to time to be made and imposed; and any repeal or alteration thereof, or any of them, may be likewise agreed to be established and confirmed by the said general meeting of the said corporation, to be held and kept next after the same shall be respectively made. And whereas the said corporation intend to settle a colony, and to make an habitation and plantation in that part of our province of South-Carolina, in America, herein after described—Know ye, that we greatly desiring the happy success of the said corporation, for their further encouragement in accomplishing so excellent a work have of our aforesaid grace, certain knowledge and mere motion, given and granted by these presents, for us, our heirs and successors, do give and grant to the said corporation and their successors under the reservation, limitation and declaration, hereafter expressed, seven undivided parts, the whole in eight equal parts to be divided, of all those lands, countrys and territories, situate, lying and being in that part of South-Carolina, in America, which lies from the most northern part of a stream or river there, commonly called the Savannah, all along the sea coast to the southward, unto the most southern stream of a certain other great water or river called the Alatamaha, and westerly from the heads of the said rivers respectively, in direct lines to the south seas; and all that share, circuit and precinct of land, within the said boundaries, with the islands on the sea, lying opposite to the eastern coast of the said lands, within twenty leagues of the same, which are not inhabited already, or settled by any authority derived from the crown of Great-Britain: together with all the soils, grounds, havens, ports, gulfs and bays, mines, as well royal mines of gold and silver, as other minerals, precious stones, quarries, woods, rivers, waters, fishings, as well royal fishings of whale and sturgeon as other fishings, pearls, commodities, jurisdictions, royalties, franchises, privileges and pre-eminences within the said frontiers and precincts thereof and thereunto, in any sort belonging or appertaining, and which we by our letters patent may or can grant, and in as ample manner and sort as we may or any of our royal progenitors have hitherto granted to any company, body politic or corporate, or to any adventurer or adventurers, undertaker or undertakers, of any discoveries, plantations or traffic, of, in, or unto any foreign parts whatsoever; and in as legal and ample manner, as if the same were herein particularly mentioned and expressed: to have, hold, possess and enjoy, the said seven undivided parts, the whole into eight equal parts, to be divided as aforesaid, of all and singular the lands, countries and territories, with all and singular other the premises herein before by these presents granted or mentioned, or intended to be granted to them, the said corporation, and their successors forever, for the better support of the said colony, to be holden of us, our heirs and successors, as of our honour of Hampton-court, in our county of Middlesex in free and common soccage, and not in capite, yielding, and paying therefor to us, our heirs and successors yearly forever, the sum of four shillings for every hundred acres of the said lands, which the said corporation shall grant, demise, plant or settle; the said payment not to commence or to be made, until ten years after such grant, demise, planting or settling; and to be answered and paid to us, our heirs and successors, in such manner and in such species of money or notes, as shall be current in payment, by proclamation from time to time, in our said province of South-Carolina. All which lands, countries, territories and premises, hereby granted or mentioned, and intended to be granted, we do by these presents, make, erect and create one independent and separate province, by the name of Georgia, by which name we will, the same henceforth be called. And that all and every person or persons, who shall at any time hereafter inhabit or reside within our said province, shall be, and are hereby declared to be free, and shall not be subject to or be bound to obey any laws, orders, statutes or constitutions, which have been heretofore made, ordered or enacted by, for, or as, the laws, orders, statutes or constitutions of our said province of South-Carolina, (save and except only the in chief of the militia, of our said province of Georgia, to our governor for the time being of South-Carolina, in manner hereafter declared;) but shall be subject to, and bound to obey, such laws, orders, statutes and constitutions as shall from time to time be made, ordered and enacted, for the better government of the said province of Georgia, in the manner hereinafter declared. And we do hereby, for our heirs and successors, ordain, will and establish, that for

and during the term of twenty-one years, to commence from the date of these our letters patent, the said corporation assembled for that purpose, shall and may form and prepare, laws, statutes and ordinances, fit and necessary for and concerning the government of the said colony, and not repugnant to the laws and statutes of England; and the same shall and may present under their common seal to us, our heirs and successors, in our or their privy council for our or their approbation or disallowance: and the said laws, statutes and ordinances, being approved of by us, our heirs and successors, in our or their privy council, shall from thence forth be in full force and virtue within our said province of Georgia. And forasmuch as the good and prosperous success of the said colony cannot but chiefly depend, next under the blessing of God, and the support of our royal authority, upon the provident and good direction of the whole enterprise, and that it will be too great a burthen upon all the members of the said corporation to be convened so often as may be requisite, to hold meetings for the settling, supporting, ordering, and maintaining the said colony; therefore we do will, ordain and establish, that the said common council for the time being, of the said corporation, being assembled for that purpose, or the major part of them, shall from time to time, and at all times hereafter, have full power and authority to dispose of, extend and apply all the monies and effects belonging to the said corporation, in such manner and ways and by such expenses as they shall think best to conduce to the carrying on and effecting the good purposes herein mentioned and intended; and also shall have full power in the name and on account of the said corporation, and with and under their common seal, to enter under any covenants or contracts, for carrying on and effecting the purposes aforesaid. And our further will and pleasure is, that the said common council for the time being, or the major part of such common council, which shall be present and assembled for that purpose, from time to time, and at all times hereafter, shall and may nominate, constitute and appoint a treasurer or treasurers, secretary or secretaries, and such other officers, ministers and servants of the said corporation as to them or the major part of them as shall be present, shall seem proper or requisite for the good management of their affairs; and at their will and pleasure to displace, remove and put out such treasurer or treasurers, secretary or secretaries, and all such other officers, ministers and servants, as often as they shall think fit so to do; and others in the room, office, place or station of him or them so displaced, removed or put out, to nominate, constitute and appoint; and shall and may determine and appoint, such reasonable salaries, perquisites and other rewards, for their labor, or service of such officers, servants and persons as to the said common council shall seem meet; and all such officers servants and persons shall, before the acting in their respective offices, take an oath to be to them administered by the chairman for the time being of the said common council of the said corporation, who is hereby authorized to administer the same, for the faithful and due execution of their respective offices and places. And our will and pleasure is, that all such person and persons, who shall from time to time be chosen or appointed treasurer or treasurers, secretary or secretaries of the said corporation, in manner herein after directed, shall during such times as they shall serve in the said offices respectively, be incapable of being a member of the said corporation. And we do further of our special grace, certain knowledge and mere motion, for us, our heirs and successors, grant, by these presents, to the said corporation and their successors, that it shall be lawful for them and their officers or agents, at all times hereafter, to transport and convey out of our realm of Great-Britain, or any other of our dominions, into the said province of Georgia, to be there settled so many of our loving subjects, or any foreigners that are willing to become our subjects, and live under our allegiance, in the said colony, as shall be willing to go to, inhabit, or reside there, with sufficient shipping, armour, weapons, powder, shot, ordnance, munition, victuals, merchandize and wares, as are esteemed by the wild people; clothing, implements, furniture, cattle, horses, mares, and all other things necessary for the said colony, and for the use and defence and trade with the people there, and in passing and returning to and from the same. Also we do, for ourselves and successors, declare, by these presents, that all and every the persons which shall happen to be born within the said province, and every of their children and posterity, shall have and enjoy all liberties, franchises and immunities of free denizens and natural born subjects,

within any of our dominions, to all intents and purposes, as if abiding and born within this our kingdom of Great-Britain, or any other dominion.——And for the greater ease and encouragement of our loving subjects and such others as shall come to inhabit in our said colony, we do by these presents, for us, our heirs and successors, grant, establish and ordain, that forever hereafter, there shall be a liberty of conscience allowed in the worship of God, to all persons inhabiting, or which shall inhabit or be resident within our said province, and that all such persons, except papists, shall have a free exercise of religion, so they be contented with the quiet and peaceable enjoyment of the same, not giving offence or scandal to the government. And our further will and pleasure is, and we do hereby for us, our heirs and successors, declare and grant, that it shall and may be lawful for the said common council, or the major part of them assembled for that purpose, in the name of the corporation, and under the common seal, to distribute, convey, assign and set over such particular portions of lands, tenements and hereditaments by these presents granted to the said corporation, unto such our loving subjects, natural born, denizens or others that shall be willing to become our subjects, and live under our allegiance in the said colony, upon such terms, and for such estates, and upon such rents, reservations and conditions as the same may be lawfully granted, and as to the said common council, or the major part of them so present, shall seem fit and proper. Provided always that no grants shall be made of any part of the said lands unto any person, being a member of the said corporation, or to any other person in trust, for the benefit of any member of the said corporation; and that no person having any estate or interest, in law or equity, in any part of the said lands, shall be capable of being a member of the said corporation, during the continuance of such estate or interest. Provided also, that no greater quantity of lands be granted, either entirely or in parcels, to or for the use, or in trust for any one person, than five hundred acres; and that all grants made contrary to the true intent and meaning hereof, shall be absolutely null and void. And we do hereby grant and ordain, that such person or persons, for the time being as shall be thereunto appointed by the said corporation, shall and may at all times, and from time to time hereafter, have full power and authority to administer and give the oaths, appointed by an act of parliament, made in the first year of the reign of our late royal father, to be taken instead of the oaths of allegiance and supremacy; and also the oath of abjuration, to all and every person and persons which shall at any time be inhabiting or residing within our said colony; and in like cases to administer the solemn affirmation to any of the persons commonly called quakers, in such manner as by the laws of our realm of Great-Britain, the same may be administered. And we do, of our further grace, certain knowledge and mere motion, grant, establish and ordain, for us, our heirs and successors, that the said corporation and their successors, shall have full power and authority, for and during the term of twenty-one years, to commence from the date of these our letters patent, to erect and constitute judicatories and courts of record, or other courts, to be held in the name of us, our heirs and successors for the hearing and determining of all manner of crimes, offences, pleas, processes, plaints, actions, matters, causes and things whatsoever, arising or happening, within the said province of Georgia, or between persons of Georgia; whether the same be criminal or civil, and whether the said crimes be capital or not capital, and whether the said pleas be real, personal or mixed: and for awarding and making out executions thereupon; to which courts and judicatories, we do hereby, for us, our heirs and successors, give and grant full power and authority, from time to time, to administer oaths for the discovery of truth in any matter in controversy, or depending before them, or the solemn affirmation, to any of the persons commonly called quakers, in such manner, as by the laws of our realm of Great-Britain, the same may be administered. And our further will and pleasure is, that the said corporation and their successors, do from time to time, and at all times hereafter, register or cause to be registered, all such leases, grants, plantings, conveyances, settlements, and improvements whatsoever, as shall at any time hereafter be made by, or in the name of the said corporation, of any lands, tenements or hereditaments within the said province; and shall yearly send and transmit, or cause to be sent or transmitted, authentic accounts of such leases, grants, conveyances, settlements and improvements respectively, unto the auditor of the plantations for the time being,

or his deputy, and also to our surveyor for the time being of our said province of South-Carolina; to whom we do hereby grant full power and authority from time to time, as often as need shall require, to inspect and survey, such of the said lands and premises, as shall be demised, granted and settled as aforesaid: which said survey and inspection, we do hereby declare, to be intended to ascertain the quit-rents which shall from time to time become due to us, our heirs and successors, according to the reservation herein before mentioned, and for no other purposes whatsoever; hereby for us, our heirs and successors, strictly enjoining and commanding, that neither our or their surveyor, or any person whatsoever, under the pretext and colour of making the said survey or inspection, shall take, demand or receive, any gratuity, fee or reward, of or from, any person or persons, inhabiting in the said colony, or from the said corporation or common council of the same, on the pain of forfeiture of the said office or offices, and incurring our highest displeasure. Provided always, and our further will and pleasure is, that all leases, grants and conveyances to be made by or in the name of the said corporation, of any lands within the said province, or a memorial containing the substance and effect thereof, shall be registered with the auditor of the said plantations, of us, our heirs and successors, within the space of one year, to be computed from the date thereof, otherwise the same shall be void. And our further will and pleasure is, that the rents, issues and all other profits, which shall at any time hereafter come to the said corporation, or the major part of them which shall be present at any meeting for that purpose assembled, shall think will most improve and enlarge the said colony, and best answer the good purposes herein before mentioned, and for defraying all other charges about the same. And our will and pleasure is, that the said corporation and their successors, shall from time to time give in to one of the principal secretaries of state, and to the commissioners of trade and plantations, accounts of the progresses of the said colony. And our will and pleasure is that no act done at any meeting of the said common council of the said corporation, shall be effectual and valid, unless eight members at least of the said common council, including the member who shall serve as chairman at the said meeting, be present, and the major part of them consenting thereunto. And our will and pleasure is, that the common council of the said corporation for the time being, or the major part of them who shall be present, being assembled for that purpose, shall from time to time, for, and during, and unto the full end and expiration of twenty-one years, to commence from the date of these our letters patent, have full power and authority to nominate, make, constitute and commission, ordain and appoint, by such name or names, style or styles, as to them shall seem meet and fitting, all and singular such governors, judges, magistrates, ministers and officers, civil and military, both by sea and land, within the said districts, as shall by them be thought fit and needful to be made or used for the said government of the said colony; save always, and except such offices only as shall by us, our heirs and successors, be from time to time constituted and appointed, for the managing collecting and receiving such revenues, as shall from time to time arise within the said province of Georgia, and become due to us, our heirs and successors. Provided always, and it is our will and pleasure, that every governor of the said province of Georgia, to be appointed by the common council of the said corporation, before he shall enter upon or execute the said office of governor, shall be approved by us, our heirs or successors, and shall take such oaths, and shall qualify himself in such manner, in all respects, as any governor or commander in chief of any of our colonies or plantations in America, are by law required to do; and shall give good and sufficient security for observing the several acts of parliament relating to trade and navigation, and to observe and obey all instructions that shall be sent to him by us, our heirs and successors, or any acting under our or their authority, pursuant to the said acts, or any of them. And we do by these presents for us, our heirs and successors, will, grant and ordain, that the said corporation and their successors, shall have full power for and during and until the full end and term of twenty-one years, to commence from the date of these our letters patent, by any commander or other officer or officers, by them for that purpose from time to time appointed, to train and instruct, exercise and govern a militia, for the special defence and safety of our said colony, to assemble in martial array, the inhabitants of the said colony, and to lead and conduct them, and with them to encounter, expulse,

repel, resist and pursue, by force of arms, as well by sea as by land, within or without the limits of our said colony; and also to kill, slay and destroy, and conquer by all fitting ways, enterprizes and means whatsoever, all and every such person or persons as shall at any time hereafter, in any hostile manner, attempt or enterprize the destruction, invasion, detriment or annoyance of our said colony; and to use and exercise the martial law in time of actual war and invasion or rebellion, in such cases, where by law the same may be used or exercised; and also from time to time to erect forts, and fortify any place or places within our said colony, and the same to furnish with all necessary ammunition, provisions and stores of war, for offence and defence, and to commit from time to time the custody or government of the same, to such person or persons as to them shall seem meet: and the said forts and fortifications to demolish at their pleasure; and to take and surprize, by all ways and means, all and every such person or persons, with their ships, arms, ammunition and other goods, as shall in an hostile manner, invade or attempt the invading, conquering or annoying of our said colony. And our will and pleasure is, and we do hereby, for us, our heirs and successors, declare and grant, that the governor and commander in chief of the province of South-Carolina, of us, our heirs and successors, for the time being, shall at all times hereafter have the chief command of the militia of our said province, hereby erected and established; and that such militia shall observe and obey all orders and directions, that shall from time to time be given or sent to them by the said governor or commander in chief; any thing in these presents before contained to the contrary hereof, in any wise notwithstanding. And, of our more special grace, certain knowledge and mere motion, we have given and granted, and by these presents, for us, our heirs and successors, do give and grant, unto the said corporation and their successors, full power and authority to import and export their goods, at and from any port or ports that shall be appointed by us, our heirs and successors, within the said province of Georgia, for that purpose, without being obliged to touch at any other port in South-Carolina. And we do, by these presents, for us, our heirs and successors, will and declare, that from and after the termination of the said term or twenty-one years, such form of government and method of making laws, statutes and ordinances, for the better governing and ordering the said province of Georgia, and the inhabitants thereof, shall be established and observed within the same, as we, our heirs and successors, shall hereafter ordain and appoint, and shall be agreeably to law; and that from and after the determination of the said term of twenty-one years, the governor of our said province of Georgia, and all officers civil and military, within the same, shall from time to time be nominated and constituted, and appointed by us, our heirs and successors. And lastly, we do hereby, for us, our heirs and successors, grant unto the said corporation and their successors, that these our letters patent, or the enrolments or exemplification thereof, shall be in and by all things good, firm, valid, sufficient and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed and adjudged, in all courts and elsewhere in the most favorable and beneficial sense, and for the best advantage of the said corporation and their successors any omission, imperfection, defect, matter or cause, or thing whatsoever to the contrary, in any wise notwithstanding. In witness, we have caused these our letters to be made patent: witness ourself at Westminster, the ninth day of June, in the fifth year of our reign.

By writ of privy-seal.

COOKS.

CONSTITUTION OF GEORGIA—1777.*

Whereas the conduct of the legislature of Great Britain for many years past has been so oppressive on the people of America that of late years they have plainly declared and asserted a right to raise taxes upon the people of America, and to make

* This constitution was framed by a convention which assembled at Savannah October 1, 1776, in accordance with the recommendation of the Continental Congress that the people of the Colonies should form independent State governments. It was unanimously agreed to February 5, 1777.



laws to bind them in all cases whatsoever, without their consent; which conduct, being repugnant to the common rights of mankind, hath obliged the Americans, as freemen, to oppose such oppressive measures, and to assert the rights and privileges they are entitled to by the laws of nature and reason; and accordingly it hath been done by the general consent of all the people of the States of New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, the counties of New Castle, Kent, and Sussex on Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, given by their representatives met together in general Congress, in the city of Philadelphia;

And whereas it hath been recommended by the said Congress, on the fifteenth of May last, to the respective assemblies and conventions of the United States, where no government, sufficient to the exigencies of their affairs, hath been hitherto established, to adopt such government as may, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular and America in general;

And whereas the independence of the United States of America has been also declared, on the fourth day of July, one thousand seven hundred and seventy-six, by the said honorable Congress, and all political connection between them and the Crown of Great Britain is in consequence thereof dissolved:

We, therefore, the representatives of the people, from whom all power originates, and for whose benefit all government is intended, by virtue of the power delegated to us, do ordain and declare, and it is hereby ordained and declared, that the following rules and regulations be adopted for the future government of this State:

ARTICLE I. The legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other.

ART. II. The legislature of this State shall be composed of the representatives of the people, as is hereinafter pointed out; and the representatives shall be elected yearly, and every year, on the first Tuesday in December; and the representatives so elected shall meet the first Tuesday in January following, at Savannah, or any other place or places where the house of assembly for the time being shall direct.

On the first day of the meeting of the representatives so chosen, they shall proceed to the choice of a governor, who shall be styled "*honorable;*" and of an executive council, by ballot out of their own body, viz: two from each county, except those counties which are not yet entitled to send ten members. One of each county shall always attend, where the governor resides, by monthly rotation, unless the members of each county agree for a longer or shorter period. This is not intended to exclude either member attending. The remaining number of representatives shall be called the house of assembly; and the majority of the members of the said house shall have power to proceed on business.

ART. III. It shall be an unalterable rule that the house of assembly shall expire and be at an end, yearly and every year, on the day preceding the day of election mentioned in the foregoing rule.

ART. IV. The representation shall be divided in the following manner: ten members from each county, as is hereinafter directed, except the county of Liberty, which contains three parishes, and that shall be allowed fourteen.

The ceded lands north of Ogechee shall be one county, and known by the name of Wilkes.

The parish of Saint Paul shall be another county, and known by the name of Richmond.

The parish of Saint George shall be another county, and known by the name of Burke.

The parish of Saint Matthew, and the upper part of Saint Philip, above Canouchee, shall be another county, and known by the name of Effingham.

The parish of Christ Church, and the lower part of Saint Philip, below Canouchee, shall be another county, and known by the name of Chatham.

The parishes of Saint John, Saint Andrew, and Saint James shall be another county, and known by the name of Liberty.

The parishes of Saint David and Saint Patrick shall be another county, and known by the name of Glynn.

The parishes of Saint Thomas and Saint Mary shall be another county, and known by the name of Camden.

The port and town of Savannah shall be allowed four members to represent their trade.

The port and town of Sunbury shall be allowed two members to represent their trade.

ART. V. The two counties of Glynn and Camden shall have one representative each, and also they, and all other counties that may hereafter be laid out by the house of assembly, shall be under the following regulations, viz: at their first institution each county shall have one member, provided the inhabitants of the said county shall have ten electors; and if thirty, they shall have two; if forty, three; if fifty, four; if eighty, six; if a hundred and upward, ten; at which time two executive councillors shall be chosen from them, as is directed for the other counties.

ART. VI. The representatives shall be chosen out of the residents in each county, who shall have resided at least twelve months in this State, and three months in the county where they shall be elected; except the freeholders of the counties of Glynn and Camden, who are in a state of alarm, and who shall have the liberty of choosing one member each, as specified in the articles of this constitution, in any other county, until they have residents sufficient to qualify them for more; and they shall be of the Protestant religion, and of the age of twenty-one years, and shall be possessed in their own right of two hundred and fifty acres of land, or some property to the amount of two hundred and fifty pounds.

ART. VII. The house of assembly shall have power to make such laws and regulations as may be conducive to the good order and well-being of the State; provided such laws and regulations be not repugnant to the true intent and meaning of any rule or regulation contained in this constitution.

The house of assembly shall also have power to repeal all laws and ordinances they find injurious to the people; and the house shall choose its own speaker, appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies, and shall have power of adjournment to any time or times within the year.

ART. VIII. All laws and ordinances shall be three times read, and each reading shall be on different and separate days, except in cases of great necessity and danger; and all laws and ordinances shall be sent to the executive council after the second reading, for their perusal and advice.

ART. IX. All male white inhabitants, of the age of twenty-one years, and possessed in his own right of ten pounds value, and liable to pay tax in this State, or being of any mechanic trade, and shall have been resident six months in this State, shall have a right to vote at all elections for representatives, or any other officers, herein agreed to be chosen by the people at large; and every person having a right to vote at any election shall vote by ballot personally.

ART. X. No officer whatever shall serve any process, or give any other hinderance to any person entitled to vote, either in going to the place of election, or during the time of the said election, or on their returning home from such election; nor shall any military officer, or soldier, appear at any election in a military character, to the intent that all elections may be free and open.

ART. XI. No person shall be entitled to more than one vote, which shall be given in the county where such person resides, except as before excepted; nor shall any person who holds any title of nobility be entitled to a vote, or be capable of serving as a representative, or hold any post of honor, profit, or trust in this State, whilst such person claims his title of nobility; but if the person shall give up such distinction, in the manner as may be directed by any future legislation, then, and in such case, he shall be entitled to a vote, and represent, as before directed, and enjoy all the other benefits of a free citizen.

ART. XII. Every person absenting himself from an election, and shall neglect to give in his or their ballot at such election, shall be subject to a penalty not exceeding five pounds; the mode of recovery, and also the appropriation thereof, to be pointed out and directed by act of the legislature: *Provided, nevertheless,* That a reasonable excuse shall be admitted.

ART. XIII. The manner of electing representatives shall be by ballot, and shall be taken by two or more justices of the peace in each county, who shall provide a convenient box for receiving the said ballots: and, on closing the poll, the ballots shall be compared in public with the list of votes that have been taken, and the majority immediately declared; a certificate of the same being given to the persons elected, and also a certificate returned to the house of representatives.

ART. XIV. Every person entitled to vote shall take the following oath or affirmation, if required, viz:

"I, A B, do voluntarily and solemnly swear (or affirm, as the case may be) that I do owe true allegiance to this State, and will support the constitution thereof; so help me God."

ART. XV. Any five of the representatives elected, as before directed, being met, shall have power to administer the following oath to each other; and they, or any other member, being so sworn, shall, in the house, administer the oath to all other members that attend, in order to qualify them to take their seats, viz:

"I, A B, do solemnly swear that I will bear true allegiance to the State of Georgia, and will truly perform the trusts reposed in me; and that I will execute the same to the best of my knowledge, for the benefit of this State, and the support of the constitution thereof, and that I have obtained my election without fraud or bribe whatever; so help me God."

ART. XVI. The continental delegates shall be appointed annually by ballot, and shall have a right to sit, debate, and vote in the house of assembly, and be deemed a part thereof, subject, however, to the regulations contained in the twelfth article of the Confederation of the United States.

ART. XVII. No person bearing any post of profit under this State, or any person bearing any military commission under this or any other State or States, except officers of the militia, shall be elected a representative. And if any representative shall be appointed to any place of profit or military commission, which he shall accept, his seat shall immediately become vacant, and he shall be incapable of reëlection whilst holding such office.

By this article it is not to be understood that the office of a justice of the peace is a post of profit.

ART. XVIII. No person shall hold more than one office of profit under this State at one and the same time.

ART. XIX. The governor shall, with the advice of the executive council, exercise the executive powers of government, according to the laws of this State and the constitution thereof, save only in the case of pardons and remission of fines, which he shall in no instance grant; but he may reprieve a criminal, or suspend a fine, until the meeting of the assembly, who may determine therein as they shall judge fit.

ART. XX. The governor, with the advice of the executive council, shall have power to call the house of assembly together, upon any emergency, before the time which they stand adjourned to.

ART. XXI. The governor, with the advice of the executive council, shall fill up all intermediate vacancies that shall happen in offices till the next general election; and all commissions, civil and military, shall be issued by the governor, under his hand and the great seal of the State.

ART. XXII. The governor may preside in the executive council at all times, except when they are taking into consideration and perusing the laws and ordinances offered to them by the house of assembly.

ART. XXIII. The governor shall be chosen annually by ballot, and shall not be eligible to the said office for more than one year out of three, nor shall he hold any military commission under any other State or States.

The governor shall reside at such place as the house of assembly for the time being shall appoint.

ART. XXIV. The governor's oath:

"I, A B, elected governor of the State of Georgia, by the representatives thereof, do solemnly promise and swear that I will, during the term of my appointment, to the best of my skill and judgment, execute the said office faithfully and conscien-

tiously, according to law, without favor, affection, or partiality; that I will, to the utmost of my power, support, maintain, and defend the State of Georgia, and the constitution of the same; and use my utmost endeavors to protect the people thereof in the secure enjoyment of all their rights, franchises, and privileges; and that the laws and ordinances of the State be duly observed, and that law and justice in mercy be executed in all judgments. And I do further solemnly promise and swear that I will peaceably and quietly resign the government to which I have been elected at the period to which my continuance in the said office is limited by the constitution. And, lastly, I do also solemnly swear that I have not accepted of the government whereunto I am elected contrary to the articles of this constitution; so help me God."

This oath to be administered to him by the speaker of the assembly.

The same oath to be administered by the speaker to the president of the council.

No person shall be eligible to the office of governor who has not resided three years in this State.

ART. XXV. The executive council shall meet the day after their election, and proceed to the choice of a president out of their own body; they shall have power to appoint their own officers and settle their own rules of proceedings.

The council shall always vote by counties, and not individually.

ART. XXVI. Every councillor, being present, shall have power of entering his protest against any measures in council he has not consented to, provided he does it in three days.

ART. XXVII. During the sitting of the assembly the whole of the executive council shall attend, unless prevented by sickness, or some other urgent necessity; and, in that case, a majority of the council shall make a board to examine the laws and ordinances sent them by the house of assembly; and all laws and ordinances sent to the council shall be returned in five days after, with their remarks thereon.

ART. XXVIII. A committee from the council, sent with any proposed amendments to any law or ordinance, shall deliver their reasons for such proposed amendments, sitting and covered; the whole house at that time, except the speaker, uncovered.

ART. XXIX. The president of the executive council, in the absence or sickness of the governor, shall exercise all the powers of the governor.

ART. XXX. When any affair that requires secrecy shall be laid before the governor and the executive council, it shall be the duty of the governor, and he is hereby obliged, to administer the following oath, viz:

"I, A B, do solemnly swear that any business that shall be at this time communicated to the council I will not, in any manner whatever, either by speaking, writing, or otherwise, reveal the same to any person whatever, until leave given by the council, or when called upon by the house of assembly; and all this I swear without any reservation whatever; so help me God."

And the same oath shall be administered to the secretary and other officers necessary to carry the business into execution.

ART. XXXI. The executive power shall exist till renewed as pointed out by the rules of this constitution.

ART. XXXII. In all transactions between the legislative and executive bodies the same shall be communicated by message, to be delivered from the legislative body to the governor or executive council by a committee, and from the governor to the house of assembly by the secretary of the council, and from the executive council by a committee of the said council.

ART. XXXIII. The governor for the time being shall be captain-general and commander-in-chief over all the militia, and other military and naval forces belonging to this State.

ART. XXXIV. All militia commissions shall specify that the person commissioned shall continue during good behavior.

ART. XXXV. Every county in this State that has, or hereafter may have, two hundred and fifty men, and upwards, liable to bear arms, shall be formed into a battalion; and when they become too numerous for one battalion, they shall be formed into

more, by bill of the legislature; and those counties that have a less number than two hundred and fifty shall be formed into independent companies.

ART. XXXVI. There shall be established in each county a court, to be called a superior court, to be held twice in each year.

On the first Tuesday in March, in the county of Chatham.
The second Tuesday in March, in the county of Effingham.
The third Tuesday in March, in the county of Burke.
The fourth Tuesday in March, in the county of Richmond.
The next Tuesday, in the county of Wilkes.
And Tuesday fortnight, in the county of Liberty.
The next Tuesday, in the county of Glynn.
The next Tuesday, in the county of Camden.
The like courts to commence in October and continue as above.

ART. XXXVII. All causes and matters of dispute, between any parties residing in the same county, to be tried within the county.

ART. XXXVIII. All matters in dispute between contending parties residing in different counties shall be tried in the county where the defendant resides, except in cases of real estate, which shall be tried in the county where such real estate lies.

ART. XXXIX. All matters of breach of the peace, felony, murder, and treason against the State to be tried in the county where the same was committed. All matters of dispute, both civil and criminal, in any county where there is not a sufficient number of inhabitants to form a court, shall be tried in the next adjacent county where a court is held.

ART. XL. All causes, of what nature soever, shall be tried in the supreme court, except as hereafter mentioned; which court shall consist of the chief-justice, and three or more of the justices residing in the county. In case of the absence of the chief-justice, the senior justice on the bench shall act as chief-justice, with the clerk of the county, attorney for the State, sheriff, coroner, constable, and the jurors; and in case of the absence of any of the aforementioned officers, the justices to appoint others in their room *pro tempore*. And if any plaintiff or defendant in civil causes shall be dissatisfied with the determination of the jury, then, and in that case, they shall be at liberty, within three days, to enter an appeal from that verdict, and demand a new trial by a special jury, to be nominated as follows, viz: each party, plaintiff and defendant, shall choose six, six more names shall be taken indifferently out of a box provided for that purpose, the whole eighteen to be summoned, and their names to be put together into the box, and the first twelve that are drawn out, being present, shall be the special jury to try the cause, and from which there shall be no appeal.

ART. XLI. The jury shall be judges of law, as well as of fact, and shall not be allowed to bring in a special verdict; but if all or any of the jury have any doubts concerning points of law, they shall apply to the bench, who shall each of them in rotation give their opinion.

ART. XLII. The jury shall be sworn to bring in a verdict according to law, and the opinion they entertain of the evidence; provided it be not repugnant to the rules and regulations contained in this constitution.

ART. XLIII. The special jury shall be sworn to bring in a verdict according to law, and the opinion they entertain of the evidence; provided it be not repugnant to justice, equity, and conscience, and the rules and regulations contained in this constitution, of which they shall judge.

ART. XLIV. Captures, both by sea and land, to be tried in the county where such shall be carried in; a special court to be called by the chief-justice, or in his absence by the then senior justice in the said county, upon application of the captors or claimants, which cause shall be determined within the space of ten days. The mode of proceeding and appeal shall be the same as in the superior courts, unless, after the second trial, an appeal is made to the Continental Congress; and the distance of time between the first and second trial shall not exceed fourteen days; and all maritime causes to be tried in like manner.

ART. XLV. No grand jury shall consist of less than eighteen, and twelve may find a bill.

ART. XLVI. That the court of conscience be continued as heretofore practiced, and that the jurisdiction thereof be extended to try causes not amounting to more than ten pounds.

ART. XLVII. All executions exceeding five pounds, except in the case of a court-merchant, shall be stayed until the first Monday in March; provided security be given for debt and costs.

ART. XLVIII. All the costs attending any action in the superior court shall not exceed the sum of three pounds, and that no cause be allowed to depend in the superior court longer than two terms.

ART. XLIX. Every officer of the State shall be liable to be called to account by the house of assembly.

ART. L. Every county shall keep the public records belonging to the same, and authenticated copies of the several records now in the possession of this State shall be made out and deposited in that county to which they belong.

ART. LI. Estates shall not be entailed; and when a person dies intestate, his or her estate shall be divided equally among their children; the widow shall have a child's share, or her dower, at her option; all other intestates' estates to be divided according to the act of distribution, made in the reign of Charles the Second, unless otherwise altered by any future act of the legislature.

ART. LII. A register of probates shall be appointed by the legislature in every county, for proving wills and granting letters of administration.

ART. LIII. All civil officers in each county shall be annually elected on the day of the general election, except justices of the peace and registers of probates, who shall be appointed by the house of assembly.

ART. LIV. Schools shall be erected in each county, and supported at the general expense of the State, as the legislature shall hereafter point out.

ART. LV. A court-house and jail shall be erected at the public expense in each county, where the present convention or the future legislature shall point out and direct.

ART. LVI. All persons whatever shall have the free exercise of their religion; provided it be not repugnant to the peace and safety of the State; and shall not, unless by consent, support any teacher or teachers except those of their own profession.

ART. LVII. The great seal of this State shall have the following device: on one side a scroll, whereon shall be engraved, "The Constitution of the State of Georgia;" and the motto, "*Pro bono publico.*" On the other side, an elegant house, and other buildings, fields of corn, and meadows covered with sheep and cattle; a river running through the same, with a ship under full sail, and the motto, "*Deus nobis hæc otia fecit.*"

ART. LVIII. No person shall be allowed to plead in the courts of law in this State, except those who are authorized so to do by the house of assembly; and if any person so authorized shall be found guilty of malpractice before the house of assembly, they shall have power to suspend them. This is not intended to exclude any person from that inherent privilege of every *freeman*, the liberty to plead his own cause.

ART. LIX. Excessive fines shall not be levied, nor excessive bail demanded.

ART. LX. The principles of the *habeas-corpus* act shall be a part of this constitution.

ART. LXI. Freedom of the press and trial by jury to remain inviolate forever.

ART. LXII. No clergyman of any denomination shall be allowed a seat in the legislature.

ART. LXIII. No alteration shall be made in this constitution without petitions from a majority of the counties, and the petitions from each county to be signed by a majority of voters in each county within this State; at which time the assembly shall order a convention to be called for that purpose, specifying the alterations to be made, according to the petitions preferred to the assembly by the majority of the counties as aforesaid.

Done at Savannah, in convention, the fifth day of February, in the year of our Lord one thousand seven hundred and seventy-seven, and in the first year of the Independence of the United States of America.

CONSTITUTION OF GEORGIA—1789.*

We, the underwritten delegates from the people, in convention met, do declare that the following articles shall form the constitution for the government of this State; and, by virtue of the powers in us vested for that purpose, do hereby ratify and confirm the same.

ARTICLE I.

SECTION 1. The legislative power shall be vested in two separate and distinct branches, to wit, a senate and house of representatives, to be styled "The general assembly."

SEC. 2. The senate shall be elected on the first Monday in October in every third year, until such day of election be altered by law; and shall be composed of one member from each county, chosen by the electors thereof, and shall continue for the term of three years.

SEC. 3. No person shall be a member of the senate who shall not have attained to the age of twenty-eight years, and who shall not have been nine years an inhabitant of the United States, and three years a citizen of this State; and shall be an inhabitant of that county for which he shall be elected, and have resided therein six months immediately preceding his election, and shall be possessed in his own right of two hundred and fifty acres of land, or some property to the amount of two hundred and fifty pounds.

SEC. 4. The senate shall elect, by ballot, a president out of their own body.

SEC. 5. The senate shall have solely the power to try all impeachments.

SEC. 6. The election of members for the house of representatives shall be annual, on the first Monday in October, until such day of election be altered by law, and shall be composed of members from each county, in the following proportions: Camden, two; Glynn, two; Liberty, four; Chatham, five; Effingham, two; Burke, four; Richmond, four; Wilkes, five; Washington, two; Green, two; and Franklin, two.

SEC. 7. No person shall be a member of the house of representatives who shall not have attained to the age of twenty-one years, and have been seven years a citizen of the United States, and two years an inhabitant of this State; and shall be an inhabitant of that county for which he shall be elected, and have resided therein three months immediately preceding his election; and shall be possessed in his own right of two hundred acres of land, or other property to the amount of one hundred and fifty pounds.

SEC. 8. The house of representatives shall choose their speaker and other officers.

SEC. 9. They shall have solely the power to impeach all persons who have been or may be in office.

SEC. 10. No person holding a military commission, or office of profit, under this or the United States, or either of them, (except justices of the peace and officers of the militia,) shall be allowed to take his seat as a member of either branch of the general assembly; nor shall any senator or representative be elected to any office of profit which shall be created during his appointment.

SEC. 11. The meeting of the general assembly shall be annual, on the first Monday in November, until such day of meeting be altered by law.

SEC. 12. One-third of the members of each branch shall have power to proceed to business; but a smaller number may adjourn from day to day, and compel the attendance of their members in such manner as each house may prescribe.

SEC. 13. Each house shall be judges of the elections, returns, and qualifications of its own members, with powers to expel or punish for disorderly behavior.

SEC. 14. No senator or representative shall be liable to be arrested during his attendance on the general assembly, or for a reasonable time in going thereto or returning

* This constitution was framed by a convention which assembled at Augusta, November 4, 1788, and was ratified by a convention chosen for the purpose of ratifying or rejecting it, which met at Augusta, January 4, 1789.

home, except it be for treason, felony, or breach of the peace; nor shall any member be liable to answer for anything spoken in debate in either house, in any court or place elsewhere.

SEC. 15. The members of the senate and house of representatives shall take the following oath or affirmation: "I, A B, do solemnly swear (or affirm, as the case may be) that I have not obtained my election by bribery, or other unlawful means; and that I will give my vote on all questions that may come before me, as a senator, (or representative,) in such manner as, in my judgment, will best promote the good of this State; and that I will bear true faith and allegiance to the same, and to the utmost of my power observe, support, and defend the constitution thereof."

SEC. 16. The general assembly shall have power to make all laws and ordinances which they shall deem necessary and proper for the good of the State, which shall not be repugnant to this constitution.

SEC. 17. They shall have power to alter the boundaries of the present counties, and to lay off new ones, as well out of the counties already laid off, as out of the other territory belonging to the State. When a new county or counties shall be laid off, out of any of the present county or counties, such new county or counties shall have their representation apportioned out of the number of the representatives of the county or counties out of which it or they shall be laid out; and when any new county shall be laid off in the vacant territory belonging to the State, such county shall have a number of representatives, not exceeding three, to be regulated and determined by the general assembly. And no money shall be drawn out of the treasury, or from the public funds of this State, except by appropriations made by law.

SEC. 18. No clergyman of any denomination shall be a member of the general assembly.

ARTICLE II.

SECTION 1. The executive power shall be vested in a governor, who shall hold his office during the term of two years, and shall be elected in the following manner:

SEC. 2. The house of representatives shall, on the second day of their making a house, in the first, and in every second year thereafter, vote by ballot for three persons; and shall make a list containing the names of the persons voted for, and of the number of votes for each person; which list the speaker shall sign in the presence of the house, and deliver it in person to the senate; and the senate shall, on the same day, proceed, by ballot, to elect one of the three persons having the highest number of votes; and the person having a majority of the votes of the senators present shall be the governor.

SEC. 3. No person shall be eligible to the office of governor who shall not have been a citizen of the United States twelve years, and an inhabitant of this State six years, and who hath not attained to the age of thirty years, and who does not possess five hundred acres of land, in his own right, within this State, and other species of property to the amount of one thousand pounds sterling.

SEC. 4. In case of the death, resignation, or disability of the governor, the president of the senate shall exercise the executive powers of government until such disability be removed, or until the next meeting of the general assembly.

SEC. 5. The governor shall, at stated times, receive for his service a compensation which shall neither be increased nor diminished during the period for which he shall be elected; neither shall he receive, within that period, any other emolument from the United States, or any of them, or from any foreign power. Before he enters on the execution of his office he shall take the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will faithfully execute the office of governor of the State of Georgia, and will, to the best of my abilities, preserve, protect, and defend the said State, and cause justice to be executed in mercy therein, according to the constitution and laws of the same."

SEC. 6. He shall be commander-in-chief in and over the State of Georgia, and of the militia thereof.

SEC. 7. He shall have power to grant reprieves for offences against the State,

except in cases of impeachment, and to grant pardons, in all cases after conviction, except for treason or murder, in which cases he may respite the execution, and make a report thereof to the next general assembly, by whom a pardon may be granted.

SEC. 8. He shall issue writs of election to fill up all vacancies that happen in the senate or house of representatives, and shall have power to convene the general assembly on extraordinary occasions, and shall give them, from time to time, information of the state of the republic, and recommend to their consideration such measures as he may deem necessary and expedient.

SEC. 9. In case of a disagreement between the senate and house of representatives, with respect to the time to which the general assembly shall adjourn, he may adjourn them to such time as he may think proper.

SEC. 10. He shall have the revision of all bills passed by both houses, before the same shall become laws; but two-thirds of both houses may pass a law, notwithstanding his dissent, and, if any bill should not be returned by the governor within five days after it hath been presented to him, the same shall be a law, unless the general assembly, by their adjournment, shall prevent its return.

SEC. 11. The great seal of the State shall be deposited in the office of the secretary, and it shall not be affixed to any instrument of writing without it be by order of the governor or general assembly; and the general assembly may direct the great seal to be altered.

ARTICLE III.

SECTION 1. A superior court shall be held in each county twice in every year; in which shall be tried, and brought to final decision, all causes, civil and criminal, except such as may be subject to a Federal court, and such as may, by law, be referred to inferior jurisdiction.

SEC. 2. The general assembly shall point out the mode of correcting errors and appeals, which shall extend so far as to empower the judges to direct a new trial by jury within the county where the action originated, and which shall be final.

SEC. 3. Courts-merchant shall be held as heretofore, subject to such regulations as the general assembly may by law direct.

SEC. 4. All causes shall be tried in the county where the defendant resides except in cases of real estate, which shall be tried in the county where such estate lies, and in criminal cases, which shall be tried in the county where the crime shall be committed.

SEC. 5. The judges of the superior court and attorney-general shall have a competent salary established by law, which shall not be increased nor diminished during their continuance in office, and shall hold their commission during the term of three years.

ARTICLE IV.

SECTION 1. The electors of the members of both branches of the general assembly shall be citizens and inhabitants of this State, and shall have attained to the age of twenty-one years, and have paid tax for the year preceding the election, and shall have resided six months within the county.

SEC. 2. All elections shall be by ballot, and the house of representatives, in all appointments of State officers, shall vote for three persons; and a list of the three persons having the highest number of votes shall be signed by the speaker, and sent to the senate, which shall from such list determine, by a majority of their votes, the officer elected, except militia officers and the secretaries of the governor, who shall be appointed by the governor alone, under such regulations and restrictions as the general assembly may prescribe. The general assembly may vest the appointment of inferior officers in the governor, the courts of justice, or in such other manner as they may by law establish.

SEC. 3. Freedom of the press and trial by jury shall remain inviolate.

SEC. 4. All persons shall be entitled to the benefit of the writ of *habeas corpus*.

SEC. 5. All persons shall have the free exercise of religion, without being obliged to contribute to the support of any religious profession but their own.

SEC. 6. Estates shall not be entailed; and when a person dies intestate, leaving a

wife and children, the wife shall have a child's share, or her dower, at her option; if there be no wife, the estate shall be equally divided among the children and their legal representatives of the first degree. The distribution of all other intestate estates may be regulated by law.

Sec. 7. At the general election for members of assembly, in the year one thousand seven hundred and ninety-four, the electors in each county shall elect three persons to represent them in a convention, for the purpose of taking into consideration the alterations necessary to be made in this constitution, who shall meet at such time and place as the general assembly may appoint; and if two-thirds of the whole number shall meet and concur, they shall proceed to agree on such alterations and amendments as they may think proper: *Provided*, That after two-thirds shall have concurred to proceed to alterations and amendments, a majority shall determine on the particulars of such alterations and amendments.

Sec. 8. This constitution shall take effect, and be in full force, on the first Monday in October next, after the adoption of the same; and the executive shall be authorized to alter the time for the sitting of the superior courts, so that the same may not interfere with the annual elections in the respective counties, or the meeting of the first general assembly.

Done at Augusta, in convention, the sixth day of May, in the year of our Lord one thousand seven hundred and eighty-nine, and in the year of the Sovereignty and Independence of the United States the thirteenth.

WM. GIBBONS, *President*.

D. Longstreet, *Secretary*.

AMENDMENTS TO THE CONSTITUTION OF 1789.*

ADOPTED MAY 16, 1795.

Article I. The senate shall be elected annually on the first Monday in November until such day of election be altered by law; and shall be composed of one member from each county, to be chosen by the electors thereof.

Art. II. All elections to be made by the general assembly, shall be by joint ballot of the senate and house of representatives.

Art. III. The election of members for the house of representatives shall be annual on the first Monday in November; and shall be composed of members from each county in the following proportions: Camden, two; Glynn, two; Liberty, four; McIntosh, two; Bryan, two; Chatham, four; Effingham, two; Scriven, two; Montgomery, two; Burke, three; Richmond, two; Columbia, two; Wilkes, three; Elbert, two; Franklin, two; Oglethorpe, three; Green, three; Hancock, three; Washington, three; Warren, three.

Art. IV. At the general election for members of assembly in the year 1797, the electors of the present counties shall elect three persons to represent them in a convention for the purpose of taking into consideration the further alterations and amendments necessary to be made in the constitution, who shall meet at the town of Louisville the second Tuesday in May thereafter; a majority of the said convention shall have power to proceed to, and agree on, such alterations and amendments as they may think proper.

Art. V. The meeting of the general assembly shall be annual on the second Tuesday in January; a majority of whom shall have power to proceed to business.

Art. VI. That Louisville be the permanent seat of government; and that the governor, secretary of the State, the treasurer, the auditor, and the surveyor-general, remove their offices thereto, as soon as may be convenient, previously to the next meeting of the general assembly.

Art. VII. Article of constituted rights annexed to the constitution as amended.

Art. VIII. All powers not delegated by the constitution as amended, are retained by the people.

* These amendments were framed by a convention which met at Louisville in the spring of 1795 and completed its labors May 16, 1795. The amendments were not submitted to the people, but took effect on the first Monday of the following October.



CONSTITUTION OF GEORGIA—1798.*

The constitution of the State of Georgia, as revised, amended, and compiled by the convention of the State, at Louisville, on the 30th day of May, 1798.

ARTICLE I.

SECTION 1. The legislative, executive, and judiciary departments of government shall be distinct, and each department shall be confided to a separate body of magistracy; and no person or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

SEC. 2. The legislative power shall be vested in two separate and distinct branches, to wit: A senate and house of representatives, to be styled "The general assembly."

SEC. 3. The senate shall be elected annually, on the first Monday in November, until such day of election be altered by law; and shall be composed of one member from each county, to be chosen by the electors thereof.

SEC. 4. No person shall be a senator who shall not have attained to the age of twenty-five years, and have been nine years a citizen of the United States, and three years an inhabitant of this State, and shall have usually resided within the county for which he shall be returned, at least one year immediately preceding his election, (except persons who may have been absent on public business of this State or of the United States,) and is and shall have been possessed, in his own right, of a settled freehold estate of the value of five hundred dollars, or taxable property to the amount of one thousand dollars, within the county, for one year preceding his election, and whose estate shall, on a reasonable estimation, be fully competent to the discharge of his just debts over and above that sum.

SEC. 5. The senate shall elect, by ballot, a president of their own body.

SEC. 6. The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than removal from office and disqualification to hold and enjoy any office of honor, trust, or profit within this State; but the party convicted shall, nevertheless, be subject to indictment, trial, judgment, and punishment according to law.

SEC. 7. The house of representatives shall be composed of members from all the counties which now are, or hereafter may be, included within this State, according to their respective numbers of free white persons, and including three-fifths of all the people of color. The actual enumeration shall be made within two years, and within every subsequent term of seven years thereafter, at such time and in such manner as this convention may direct. Each county containing three thousand persons, agreeably to the foregoing plan of enumeration, shall be entitled to two members; seven thousand, to three members; and twelve thousand, to four members; but each county shall have at least one and not more than four members. The representatives shall be chosen annually, on the first Monday in November, until such day of election be altered by law. Until the aforesaid enumeration shall be made, the several counties shall be entitled to the following number of representatives, respectively: Camden, two; Glynn, two; Liberty, three; M'Intosh, two; Bryan, one; Chatham, four; Effingham, two; Scriven, two; Montgomery, two; Burke, three; Bullock, one; Jefferson, three; Lincoln, two; Elbert, three; Jackson, two; Richmond, three; Wilkes, four; Columbia, three; Warren, three; Washington, three; Hancock, four; Greene, three; Oglethorpe, three; and Franklin, two.

SEC. 8. No person shall be a representative who shall not have attained to the age of twenty-one years, and have been seven years a citizen of the United States, three

* This constitution was framed by a convention which met at Louisville May 8, 1798. It was signed May 30, 1798, and went into effect on the first Monday of October of that year, without having been submitted to the people.

years an inhabitant of this State, and have usually resided in the county in which he shall be chosen one year immediately preceding his election, (unless he shall have been absent on public business of this State or of the United States,) and shall be possessed in his own right of a settled freehold estate of the value of two hundred and fifty dollars, or of taxable property to the amount of five hundred dollars within the county, for one year preceding his election, and whose estate shall, on a reasonable estimation, be competent to the discharge of his just debts, over and above that sum.

SEC. 9. The house of representatives shall choose their speaker and other officers.

SEC. 10. They shall have solely the power to impeach all persons who have been or may be in office.

SEC. 11. No person holding any military commission or other appointment, having any emolument or compensation annexed thereto, under this State or the United States, or either of them, except justices of the inferior court, justices of the peace, and officers of the militia, nor any person who has had charge of public moneys belonging to the State, unaccounted for and unpaid, or who has not paid all legal taxes or contributions to the government required of him, shall have a seat in either branch of the general assembly; nor shall any senator or representative be elected to any office or appointment by the legislature, having any emoluments or compensation annexed thereto, during the time for which he shall have been elected, with the above exception, unless he shall decline accepting his seat, by notice to the executive within twenty days after he shall have been elected; nor shall any member, after having taken his seat, be eligible to any of the aforesaid offices or appointments during the time for which he shall have been elected.

SEC. 12. The meeting of the general assembly shall be annually, on the second Tuesday in January, until such day of meeting be altered by law; a majority of each branch shall be authorized to proceed to business; but a smaller number may adjourn from day to day, and compel the attendance of their members in such manner as each house may prescribe.

SEC. 13. Each house shall be the judges of the elections, returns, and qualifications of its own members; with powers to expel or punish, by censuring, fining, and imprisoning, or either, for disorderly behavior; and may expel any person convicted of any felonious or infamous offence; each house may punish by imprisonment, during session, any person, not a member, who shall be guilty of disrespect by any disorderly or contemptuous behavior in its presence, or who, during session, shall threaten harm to the body or estate of any member, for anything said or done in either house, or who shall assault any of them therefor; or who shall assault or arrest any witness in going to or returning therefrom, or who shall rescue any person arrested by order of either house.

SEC. 14. No senator or representative shall be liable to be arrested during his attendance on the general assembly, or for ten days previous to its sitting, or for ten days after the rising thereof, except for treason, felony, or breach of the peace; nor shall any member be liable to answer for anything spoken in debate in either house, in any court or place elsewhere; but shall nevertheless be bound to answer for perjury, bribery, or corruption.

SEC. 15. Each house shall keep a journal of its proceedings, and publish them immediately after their adjournment; and the yeas and nays of the members on any question shall, at the desire of any two members, be entered on the journals.

SEC. 16. All bills for raising revenue or appropriating moneys shall originate in the house of representatives, but the senate shall propose or concur with amendments, as in other bills.

SEC. 17. Every bill shall be read three times and on three separate days, in each branch of the general assembly, before it shall pass, unless in cases of actual invasion or insurrection; nor shall any law or ordinance pass, containing any matter different from what is expressed in the title thereof; and all acts shall be signed by the president in the senate, and speaker in the house of representatives. No bill or ordinance which shall have been rejected by either house shall be brought in again during the session, under the same or any other title, without the consent of two-thirds of each branch.

SEC. 18. Each senator and representative, before he be permitted to take his seat, shall take an oath, or make affirmation, that he hath not practised any unlawful means, either directly or indirectly, to procure his election; and every person shall be disqualified from serving as a senator or representative, for the term for which he shall have been elected, who shall be convicted of having given or offered any bribe or treat, or canvassed for such election; and every candidate employing like means, and not elected, shall, on conviction, be ineligible to hold a seat in either house, or to hold any office of honor or profit for the term of one year, and to such other disabilities or penalties as may be prescribed by law.

SEC. 19. Every member of the senate or house of representatives shall, before he takes his seat, take the following oath or affirmation, to wit: "I, A B, do solemnly swear (or affirm, as the case may be) that I have not obtained my election by bribery, treats, canvassing, or other undue or unlawful means, used by myself, or others by my desire or approbation, for that purpose; that I consider myself constitutionally qualified as a senator, (or representative,) and that, on all questions and measures which may come before me, I will give my vote and so conduct myself as may, in my judgment, appear most conducive to the interest and prosperity of this State; and that I will bear true faith and allegiance to the same; and to the utmost of my power and ability observe, conform to, support, and defend the constitution thereof."

SEC. 20. No person who hath been or may be convicted of felony before any court of this State, or any of the United States, shall be eligible to any office or appointment of honor, profit, or trust within this State.

SEC. 21. Neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that at which the two branches shall be sitting; and in case of disagreement between the senate and house of representatives, with respect to their adjournment, the governor may adjourn them.

SEC. 22. The general assembly shall have power to make all laws and ordinances which they shall deem necessary and proper for the good of the State, which shall not be repugnant to this constitution.

SEC. 23. They shall have power to alter the boundaries of the present counties, and to lay off new ones, as well out of the counties already laid off as out of the other territory belonging to the State; but the property of the soil, in a free government, being one of the essential rights of a free people, it is necessary, in order to avoid disputes, that the limits of this State should be ascertained with precision and exactness; and this convention, composed of the immediate representatives of the people, chosen by them to assert their rights, to revise the powers given by them to the government, and from whose will all ruling authority of right flows, doth assert and declare the boundaries of this State shall be as follows, that is to say: The limits, boundaries, jurisdictions, and authority of the State of Georgia do, and did. and of right ought to, extend from the sea or mouth of the river Savannah, along the northern branch or stream thereof, to the fork or confluence of the rivers now called Tugalo and Keowee, and from thence along the most northern branch or stream of the said river Tugalo, till it intersect the northern boundary-line of South Carolina, if the said branch or stream of Tugalo extends so far north, reserving all the islands in the said rivers Savannah and Tugalo to Georgia; but, if the head spring or source of any branch or stream of the said river Tugalo does not extend to the north boundary-line of South Carolina, then a west line to the Mississippi, to be drawn from the head spring or source of the said branch or stream of Tugalo River, which extends to the highest northern latitude; thence, down the middle of the said river Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude; south, by a line drawn due east from the termination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle of the river Apalachicola, or Chatahoochee; thence, along the middle thereof, to its junction with Flint River; thence straight to the head of Saint Mary's River; and thence, along the middle of Saint Mary's River, to the Atlantic Ocean, and from thence to the mouth or inlet of Savannah River, the place of beginning; including and comprehending all the lands and waters within the said limits, boundaries, and jurisdictional rights; and also all

the islands within twenty leagues of the sea-coast. And this convention doth further declare and assert that all the territory without the present temporary line, and within the limits aforesaid, is now, of right, the property of the free citizens of this State, and held by them in sovereignty, inalienable but by their consent: *Provided, nevertheless*, That nothing herein contained shall be construed so as to prevent a sale to, or contract with, the United States, by the legislature of this State, of and for all or any part of the western territory of this State lying westward of the river Chatahoochee, on such terms as may be beneficial to both parties; and may procure an extension of settlement and extinguishment of Indian claims in and to the vacant territory of this State to the east and north of the said river Chatahoochee, to which territory such power of contract or sale, by the legislature, shall not extend: *And provided also*, The legislature may give its consent to the establishment of one or more governments westward thereof; but monopolies of land by individuals being contrary to the spirit of our free government, no sale of territory of this State, or any part thereof, shall take place to individuals or private companies, unless a county or counties shall have been first laid off, including such territory, and the Indian rights shall have been extinguished thereto.

SEC. 24. The foregoing section of this article having declared the common rights of the free citizens of this State in and to all the territory without the present temporary boundary-line, and within the limits of this State thereby defined, by which the contemplated purchases of certain companies of a considerable portion thereof are become constitutionally void, and justice and good faith require that the State should not detain a consideration for a contract which has failed, the legislature, at their next session, shall make provision by law for returning to any person or persons who has or have *bona fide* deposited moneys for such purposes in the treasury of this State: *Provided*, That the same shall not have been drawn therefrom in terms of the act passed the thirteenth day of February, one thousand seven hundred and ninety-six, commonly called the rescinding act, or the appropriation laws of the years one thousand seven hundred and ninety-six and one thousand seven hundred and ninety-seven; nor shall the moneys paid for such purchases ever be deemed a part of the funds of this State, or be liable to appropriation as such; but until such moneys be drawn from the treasury, they shall be considered altogether at the risk of the persons who have deposited the same. No money shall be drawn out of the treasury or from the public funds of this State, except by appropriation made by law; and a regular statement and account of the receipts and expenditures of all public moneys shall be published from time to time. No vote, resolution, law, or order shall pass the general assembly granting a donation or gratuity in favor of any person whatever but by the concurrence of two-thirds of the general assembly.

SEC. 25. It shall be the duty of the justices of the inferior court, or any three of them, in each county respectively, within sixty days after the adjournment of this convention, to appoint one or more fit persons in each county, not exceeding one for each battalion district, whose duty it shall be to take a full and accurate census or enumeration of all free white persons and people of color residing therein, distinguishing, in separate columns, the free white persons from persons of color, and return the same to the clerks of the superior courts of the several counties, certified under their hands, on or before the first day of December next; the persons so appointed being first severally sworn before the said justices, or either of them, duly and faithfully to perform the trust reposed in them; and it shall be the duty of the said clerks to transmit all such returns, under seal, directed to the speaker of the house of representatives, at the first session of the legislature thereafter. And it shall be the duty of the general assembly, at their said first session, to apportion the members of the house of representatives among the several counties, agreeably to the plans prescribed by this constitution, and to provide an adequate compensation for the taking of the said census. Every person whose usual place of abode shall be in any family on the first Monday in July next shall be returned as of such family; and every person occasionally absent at the time of taking the enumeration, as belonging to that place in which he usually resides. The general assembly shall, by law, direct the manner of taking such census or enumeration, within every subsequent term of seven years, in conformity to this

constitution. And it is declared to be the duty of all officers, civil and military, throughout the State, to be aiding and assisting in the true and faithful execution thereof. In case the justices of the inferior courts should fail to make such appointments, or if there should not be a sufficient number of such justices in any county, then the justices of the peace, or any three of them, shall have and exercise like powers and authority respecting the said census; and if the census or enumeration of any county shall not be so taken and returned, then, and in that case, the general assembly shall apportion the representation of such county according to the best evidence in their power, relative to its population.

ARTICLE II.

SECTION 1. The executive power shall be vested in a governor, who shall hold his office during the term of two years, and until such time as a successor shall be chosen and qualified. He shall have a competent salary, established by law, which shall not be increased or diminished during the period for which he shall have been elected; neither shall he receive, within that period, any other emolument from the United States, or either of them, or from any foreign power.

SEC. 2. The governor shall be elected by the general assembly, at their second annual session after the rising of this convention, and at every second annual session thereafter, on the second day after the two houses shall be organized and competent to proceed to business.

SEC. 3. No person shall be eligible to the office of governor who shall not have been a citizen of the United States twelve years, and an inhabitant of this State six years, and who hath not attained to the age of thirty years, and who does not possess five hundred acres of land, in his own right, within this State, and other property to the amount of four thousand dollars, and whose estate shall not, on a reasonable estimation, be competent to the discharge of his debts, over and above that sum.

SEC. 4. In case of the death, resignation, or disability of the governor, the president of the senate shall exercise the executive powers of government until such disability be removed, or until the next meeting of the general assembly.

SEC. 5. The governor shall, before he enters on the duties of his office, take the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will faithfully execute the office of governor of the State of Georgia; and will, to the best of my abilities, preserve, protect, and defend the said State, and cause justice to be executed in mercy therein, according to the constitution and laws thereof."

SEC. 6. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof.

SEC. 7. He shall have power to grant reprieves for offences against the State, except in cases of impeachment, and to grant pardons or to remit any part of a sentence, in all cases after conviction, except for treason or murder, in which cases he may respite the execution, and make report thereof to the next general assembly, by whom a pardon may be granted.

SEC. 8. He shall issue writs of election to fill up all vacancies that happen in the senate or house of representatives; and shall have power to convene the general assembly on extraordinary occasions; and shall give them, from time to time, information of the state of the republic, and recommend to their consideration such measures as he may deem necessary and expedient.

SEC. 9. When any office shall become vacant by death, resignation, or otherwise, the governor shall have the power to fill such vacancy; and persons so appointed shall continue in office until a successor is appointed, agreeable to the mode pointed out by this constitution or by the legislature.

SEC. 10. He shall have the revision of all bills passed by both houses before the same shall become laws; but two-thirds of both houses may pass a law notwithstanding his dissent; and if any bill should not be returned by the governor within five days after it hath been presented to him, the same shall be a law, unless the general assembly, by their adjournment, shall prevent its return.

SEC. 11. Every vote, resolution, or order, to which the concurrence of both houses

may be necessary, except on a question of adjournment, shall be presented to the governor; and, before it shall take effect, be approved by him; or, being disapproved, may be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 12. There shall be a secretary of the State, a treasurer, and a surveyor-general, appointed in the same manner and at the same session of the legislature, and they shall hold their offices for the like period as the governor, and shall have a competent salary, including such emoluments as may be established by law, which shall not be increased or diminished during the period for which they shall have been elected.

SEC. 13. The great seal of the State shall be deposited in the office of the secretary of state, and shall not be affixed to any instrument of writing but by order of the governor or general assembly; and the general assembly shall, at their first session after the rising of this convention, cause the great seal to be altered by law.

SEC. 14. The governor shall have power to appoint his own secretaries.

ARTICLE III.

SECTION 1. The judicial powers of this State shall be vested in a superior court, and in such inferior jurisdictions as the legislature shall, from time to time, ordain and establish. The judges of the superior court shall be elected for the term of three years, removable by the governor, on the address of two-thirds of both houses for that purpose, or by impeachment and conviction thereon. The superior court shall have exclusive and final jurisdiction in all criminal cases which shall be tried in the county wherein the crime was committed, and in all cases respecting titles to land, which shall be tried in the county where the land lies; and shall have power to correct errors in inferior judicatories by writs of *certiorari*, as well as errors in the superior courts, and to order new trials on proper and legal grounds: *Provided*, That such new trials shall be determined, and such errors corrected, in the superior court of the county in which such action originated. And the said court shall also have appellate jurisdiction in such other cases as the legislature may by law direct, which shall in no case tend to remove the cause from the county in which the action originated; and the judges thereof, in all cases of application for new trials, or correction of errors, shall enter their opinions on the minutes of the court. The inferior courts shall have cognizance of all other civil cases, which shall be tried in the county wherein the defendant resides, except in cases of joint obligors, residing in different counties, which may be commenced in either county, and a copy of the petition and process, served on the party or parties residing out of the county in which the suit may be commenced, shall be deemed sufficient service, under such rules and regulations as the legislature may direct; but the legislature may, by law, to which two-thirds of each branch shall concur, give concurrent jurisdiction to the superior courts. The superior and inferior courts shall sit in each county twice in every year, at such stated times as the legislature shall appoint.

SEC. 2. The judges shall have salaries adequate to their services, established by law, which shall not be increased or diminished during their continuance in office; but shall not receive any other perquisites or emoluments whatever, from parties or others, on account of any duty required of them.

SEC. 3. There shall be a State's attorney and solicitors appointed by the legislature, and commissioned by the governor, who shall hold their offices for the term of three years, unless removed by sentence on impeachment, or by the governor on the address of two-thirds of each branch of the general assembly. They shall have salaries adequate to their services established by law, which shall not be increased or diminished during their continuance in office.

SEC. 4. Justices of the inferior courts shall be appointed by the general assembly, and be commissioned by the governor, and shall hold their commissions during good behavior, or as long as they respectively reside in the county for which they shall be appointed, unless removed by sentence on impeachment, or by the governor on the address of two-thirds of each branch of the general assembly. They may be compensated for their services in such manner as the legislature may by law direct.



SEC. 5. The justices of the peace shall be nominated by the inferior courts of the several counties, and commissioned by the governor; and there shall be two justices of the peace in each captain's district, either or both of whom shall have power to try all cases of a civil nature within their district, where the debt or litigated demand does not exceed thirty dollars, in such manner as the legislature may by law direct. They shall hold their appointments during good behavior, or until they shall be removed by conviction on indictment in the superior court, for malpractice in office, or for any felonious or infamous crime, or by the governor on the address of two-thirds of each branch of the legislature.

SEC. 6. The powers of a court of ordinary, or register of probates, shall be invested in the inferior courts of each county, from whose decision there may be an appeal to the superior court, under such restrictions and regulations as the general assembly may by law direct; but the inferior court shall have power to vest the care of the records, and other proceedings therein, in the clerk, or such other person as they may appoint, and any one or more justices of the said court, with such clerk or other person, may issue citations and grant temporary letters, in time of vacation, to hold until the next meeting of the said court; and such clerk or other person may grant marriage-licenses.

SEC. 7. The judges of the superior courts, or any one of them, shall have power to issue writs of *mandamus*, prohibition, *scire facias*, and all other writs which may be necessary for carrying their powers fully into effect.

SEC. 8. Within five years after the adoption of this constitution, the body of our laws, civil and criminal, shall be revised, digested, and arranged under proper heads, and promulgated in such manner as the legislature may direct; and no person shall be debarred from advocating or defending his cause before any court or tribunal, either by himself or counsel, or both.

SEC. 9. Divorces shall not be granted by the legislature until the parties shall have had a fair trial before the superior court, and a verdict shall have been obtained authorizing a divorce upon legal principles. And in such cases two-thirds of each branch of the legislature may pass acts of divorce accordingly.

SEC. 10. The clerks of the superior and inferior courts shall be appointed in such manner as the legislature may by law direct; shall be commissioned by the governor, and shall continue in office during good behavior.

SEC. 11. Sheriffs shall be appointed in such manner as the general assembly may by law direct, and shall hold their appointments for the term of two years, unless sooner removed by sentence on impeachment, or by the governor on the address of two-thirds of the justices of the inferior court and of the peace in the county; but no person shall be twice elected sheriff within any term of four years; and no county officer after the next election shall be chosen at the time of electing a senator or representative.

ARTICLE IV.

SECTION 1. The electors of members of the general assembly shall be citizens and inhabitants of this State, and shall have attained the age of twenty-one years, and have paid all taxes which may have been required of them, and which they may have had an opportunity of paying, agreeably to law, for the year preceding the election, and shall have resided six months within the county: *Provided*, That in case of an invasion, and the inhabitants shall be driven from any county, so as to prevent an election therein, such refugee inhabitants, being a majority of the voters of such county, may meet under the direction of any three justices of the peace thereof, in the nearest county not in a state of alarm, and proceed to an election, without having paid such tax so required of electors; and the persons elected thereat shall be entitled to their seats.

SEC. 2. All elections by the general assembly shall be by joint ballot of both branches of the legislature; and when the senate and house of representatives unite for the purpose of electing, they shall meet in the representative chamber, and the president of the senate shall in such cases preside, receive the ballots, and declare the person or persons elected. In all elections by the people the electors shall vote *viva voce* until the legislature shall otherwise direct.

SEC 3. The general officers of the militia shall be elected by the general assembly, and shall be commissioned by the governor. All other officers of the militia shall be elected in such manner as the legislature may direct, and shall be commissioned by the governor; and all militia officers now in commission, and those which may be hereafter commissioned, shall hold their commissions during their usual residence within the division, brigade, regiment, battalion, or company to which they belong, unless removed by sentence of a court-martial, or by the governor, on the address of two-thirds of each branch of the general assembly.

SEC. 4. All persons appointed by the legislature to fill vacancies shall continue in office only so long as to complete the time for which their predecessors were appointed.

SEC. 5. Freedom of the press, and trial by jury, as heretofore used in this State, shall remain inviolate; and no *ex post facto* law shall be passed.

SEC. 6. No person who heretofore hath been, or hereafter may be, a collector, or holder of public moneys, shall be eligible to any office in this State until such person shall have accounted for and paid into the treasury all sums for which he may be accountable or liable.

SEC. 7. The person of a debtor, where there is not a strong presumption of fraud, shall not be detained in prison after delivering up, *bona fide*, all his estate, real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law.

SEC. 8. Convictions on impeachments which have heretofore taken place are hereby released, and persons lying under such convictions restored to citizenship.

SEC. 9. The writ of *habeas corpus* shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

SEC. 10. No person within this State shall, upon any pretence, be deprived of the inestimable privilege of worshipping God in a manner agreeable to his own conscience, nor be compelled to attend any place of worship contrary to his own faith and judgment; nor shall he ever be obliged to pay tithes, taxes, or any other rate, for the building or repairing any place of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right, or hath voluntarily engaged to do. No one religious society shall ever be established in this State, in preference to another; nor shall any person be denied the enjoyment of any civil right merely on account of his religious principles.

SEC. 11. There shall be no future importation of slaves into this State, from Africa or any foreign place, after the first day of October next. The legislature shall have no power to pass laws for the emancipation of slaves without the consent of each of their respective owners, previous to such emancipation. They shall have no power to prevent emigrants from either of the United States to this State from bringing with them such persons as may be deemed slaves by the laws of any one of the United States.

SEC. 12. Any person who shall maliciously dismember or deprive a slave of life shall suffer such punishment as would be inflicted in case the like offence had been committed on a free white person, and on the like proof, except in case of insurrection by such slave, and unless such death should happen by accident in giving such slave moderate correction.

SEC. 13. The arts and sciences shall be promoted, in one or more seminaries of learning; and the legislature shall, as soon as conveniently may be, give such further donations and privileges to those already established as may be necessary to secure the objects of their institution; and it shall be the duty of the general assembly, at their next session, to provide effectual measures for the improvement and permanent security of the funds and endowments of such institutions.

SEC. 14. All civil officers shall continue in the exercise of the duties of their several offices during the periods for which they were appointed, or until they shall be superseded by appointments made in conformity to this constitution; and all laws now in force shall continue to operate, so far as they are compatible with this constitution, until repealed; and it shall be the duty of the general assembly to pass all necessary laws and regulations for carrying this constitution into full effect.

SEC. 15. No part of this constitution shall be altered, unless a bill for that purpose, specifying the alterations intended to be made, shall have been read three times in the house of representatives, and three times in the senate, on three several days in each house, and agreed to by two-thirds of each house respectively; and when any such bill shall be passed in manner aforesaid, the same shall be published at least six months previous to the next ensuing annual election for members of the general assembly; and if such alterations, or any of them, so proposed, shall be agreed to in their first session thereafter, by two-thirds of each branch of the general assembly, after the same shall have been read three times, on three separate days, in each respective house, then, and not otherwise, the same shall become a part of this constitution.

We, the underwritten delegates of the people of the State of Georgia, chosen and authorized by them to revise, alter, or amend the powers and principles of their government, do declare, ordain, and ratify the several articles and sections contained in the six pages hereunto prefixed, as the constitution of this State; and the same shall be in operation from the date hereof.

In testimony whereof we, and each of us, respectively, have hereunto set our hands, at Louisville, the seat of government, this thirtieth day of May, in the year of our Lord one thousand seven hundred and ninety-eight, and in the twenty-second year of the Independence of the United States of America; and have caused the great seal of the State to be affixed thereto.

Article 4, section 11, and the first line, the following words being interlined, to wit, "after the first day of October next."

JARED IRWIN, *President.*

JAMES M. SIMMONS, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1798.*

RATIFIED DECEMBER 16, 1808.

ART. III. SEC. 10. *So altered and amended as to read:* That the clerks of the superior and inferior courts shall be elected on the same day as pointed out by law for the election of other county officers.

RATIFIED 1812.†

ART. III. SEC. 4. *So altered and amended as to read:* The justices of the inferior courts shall be elected on the third Tuesday in October, eighteen hundred and thirteen, and on the third Tuesday in October in every fourth year thereafter, by the electors entitled to vote for members of the general assembly, which election shall be held and conducted in the same manner as pointed out by law for the elections of clerks and sheriffs; and the persons so elected shall be commissioned by the governor, and continue in office for the term of four years, unless removed by impeachment for malpractice in office, or by the governor, on the address of two-thirds of both branches of the general assembly. They may be compensated for their services in such manner as the legislature may by law direct; and there shall be five justices for each county, who shall hold their offices until their successors are elected and qualified; and when any vacancy shall happen by death, resignation, or otherwise, of any justice of the inferior court, it shall be the duty of two or more justices of the inferior court, or justices of the peace, to give at least twenty days' notice by advertisement, at three of the most public places in the county, previous to the election, to fill such vacancy; which election shall be held in the same manner as is by this section before expressed.

ART. III. SEC. 5. *So altered and amended as to read:* There shall be two justices of the peace in each captain's district, in the several counties of this State, either or both

* These amendments were successively passed by the legislature, and adopted by the legislature of the following year, as prescribed by the constitution, without ratification by the people.

† Changed by the amendment of 1819.

of whom shall have power to try all cases of a civil nature within their district, where the debt or liquidated demand does not exceed thirty dollars, in such manner as the legislature may by law direct; they shall be elected on the first Saturday in January, eighteen hundred and thirteen, and on the first Saturday in January in every fourth year thereafter, by the citizens of the district to which they respectively belong, entitled to vote for members of the general assembly; which election shall be superintended by three freeholders of the district, whose duty it shall be to take the following oath, to be administered by the captain or commanding officer of said district, to wit: "I, A B, do solemnly swear that I will, to the best of my abilities, superintend the election of justices of the peace for this district; so help me God;" and they shall transmit a return of said election, within twenty days, to his excellency the governor, who is hereby authorized to commission the persons so elected accordingly; and they shall hold their appointments during the term of four years, and until their successors are elected and qualified, unless they shall be removed by conviction on indictment in the superior court, for malpractice in office, or for any felonious or infamous crime, or by the governor on the address of two-thirds of each branch of the legislature. And when any vacancy shall happen by death, resignation, or otherwise, of any justice of the peace, between the time of such election and the expiration of the time for which such justice or justices were elected, it shall be the duty of two of the justices of the peace, in any of the adjoining districts, where such vacancy or vacancies may happen, to advertise in three of the most public places in the district, where such vacancy or vacancies may happen, the time of holding an election for the purpose of filling such vacancy or vacancies, and give at least fifteen days' notice of the time and place where such election shall be held, which shall be in the district where such vacancy or vacancies shall have happened; and it shall be the duty of the said justices to superintend such election, and certify the same, under their hands, to his excellency the governor, who shall, within ten days after receiving the same, commission the person having the highest number of votes, provided the same is not contested.

RATIFIED DECEMBER 15, 1818.

ART. II. SEC. 4. *So amended and altered as to read:* In case of the death, resignation, or disability of the governor, the president of the senate, or the last acting president of the senate, shall exercise the executive powers of the government until such disability be removed, in the election and qualification of a governor by the general assembly; and in case of the death, resignation, or disability of the president of the senate, or of the last acting president of the senate, the speaker of the house of representatives, or the acting speaker of the house of representatives, shall exercise the executive powers of the government, until such disability be removed in the election and qualification of a governor by the general assembly.

RATIFIED DECEMBER 18, 1818.*

ART. III. SECTION 1. *So altered and amended as to read:* The judicial powers of this State shall be vested in a superior, inferior, and justices' courts, and such other courts as the legislature shall from time to time ordain and establish. The judges of the superior courts shall be elected for the term of three years, and shall continue in office until their successors shall be elected and qualified; removable by the governor, on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction thereon. The superior courts shall have exclusive and final jurisdiction in all criminal cases, (except as relates to people of color, and fines for neglect of duty, and for contempt of court, for violations against road-laws, and for obstructing water-courses, which shall be vested in such judicature or tribunal as shall be or may have been pointed out by law; and except in all other minor offences, committed by free white persons, and which do not subject the offender or offenders to loss of life, limb, or member, or to confinement in the penitentiary; in all such cases corporation courts, such as now exist, or may hereafter be constituted,

* Changed by the amendment of 1835.

in any incorporated city, being a sea-port town and port of entry, may be vested with jurisdiction, under such rules and regulations as the legislature may hereafter by law direct;) which shall be tried in the county where the crime was committed; and in all cases respecting titles to lands, which shall be tried in the county where the land lies; and also concurrent jurisdiction in all other civil cases; and shall have power to correct errors in inferior judicatories by writ of *certiorari*, as well as errors in the superior courts, and order new trials on proper and legal grounds: *Provided*, That such new trials shall be determined, and such errors corrected, in the superior court of the county in which such action originated; and the said court shall have appellate jurisdiction in such other cases as are or may be pointed out by law, which shall in no case tend to move the cause from the county in which the action originated; and the judges thereof, in all cases of application for new trials or correction of errors, shall enter their opinion on the minutes of the court. The inferior courts shall also have concurrent jurisdiction in all civil cases, (except in cases respecting the titles to lands,) which shall be tried in the county where the defendant resides; and in case of joint obligors and joint promissors, residing in different counties, the same may be brought in either county, and a copy of the petition and process served on the party residing out of the county in which the suit may be commenced, shall be deemed sufficient service, under such rules and regulations as the legislature have or may direct. The superior and inferior courts shall sit in each county twice in every year, at such stated times as have or may be appointed by the legislature.

RATIFIED NOVEMBER 23, 1819.†

ART. III. SEC. 4. *So altered and amended as to read:* The justices of the inferior court shall be elected by the persons entitled to vote for members of the legislature, in such manner as the legislature may by law direct.

ART. III. SEC. 5. *So altered and amended as to read:* The justices of the peace throughout this State shall be elected by the persons residing in their respective districts, entitled to vote for members of the general assembly, under such rules and regulations as the legislature may by law direct.

RATIFIED NOVEMBER 17, 1824.

ART. II. SEC. 2. *So altered and amended as to read:* The governor shall be elected by the persons qualified to vote for members of the general assembly, on the first Monday in October, in the year of our Lord one thousand eight hundred and twenty-five; and on the first Monday in October in every second year thereafter, until such time be altered by law; which election shall be held at the place of holding general elections, in the several counties of this State, in the same manner as is prescribed for the election of members of the general assembly. The returns for every election of governor shall be sealed up by the presiding justices, separately from other returns, and directed to the president of the senate and the speaker of the house of representatives, and transmitted to his excellency the governor, or the person exercising the duties of governor for the time being, who shall, without opening the said returns, cause the same to be laid before the senate, on the day after the two houses shall have been organized, and they shall be transmitted by the senate to the house of representatives. The members of each branch of the general assembly shall convene in the representative chamber, and the president of the senate, and the speaker of the house of representatives, shall open and publish the returns in presence of the general assembly; and the person having the majority of the whole number of votes given in shall be declared duly elected governor of this State. But if no person have such majority, then from the persons having the two highest number of votes who shall be in life, and shall not decline an election at the time appointed for the legislature to elect, the general assembly shall elect immediately a governor by joint ballot; and in all cases of election of a governor by the general assembly, a majority of the votes of the members present shall be necessary for a choice. Contested elections shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

† This amendment was adopted in the place of a previous amendment of the same sections, in 1812.

RATIFIED 1833.

ART. III. SEC. 9. *So altered and amended as to read:* Divorces shall be final and conclusive when the parties shall have obtained the concurrent verdicts of two special juries, authorizing a divorce upon legal principles.

RATIFIED DECEMBER, 1835.

ARTICLE I. SEC. 4. *So altered and amended as to read:* No person shall be a senator who shall not have attained to the age of twenty-five years, and have been nine years a citizen of the United States, and three years an inhabitant of this State, and shall have usually resided within the county for which he shall be returned at least one year immediately preceding his election, except persons who may have been absent on lawful business of this State or of the United States.

ARTICLE I. SEC. 8. *So altered and amended as to read:* No person shall be a representative who shall not have attained to the age of twenty-one years, and have been a citizen of the United States seven years, and three years an inhabitant of this State, and have usually resided in the county in which he shall be chosen one year immediately preceding his election, unless he shall have been absent on the public business of this State or of the United States.

RATIFIED 1835.*

ART. III. SECTION 1. *So altered and amended as to read:* The judicial powers of this State shall be vested in a supreme court for the correction of errors; a superior, inferior, and justices' courts, and in such other courts as the legislature shall, from time to time, ordain and establish. The supreme court shall consist of three judges, who shall be elected by the legislature for such term of years as shall be prescribed by law, and shall continue in office until their successors shall be elected and qualified, removable by the governor on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction thereon. The said court shall have no original jurisdiction, but shall be a court alone for the trial and correction of errors in law and equity from the superior courts of the several circuits, and shall sit at least once a year, at a time to be prescribed by law, in each of five judicial districts, to be hereafter laid off and designated by the legislature for that purpose, at the most central point in such judicial district, or at such other point in each district as shall by the general assembly be ordained, for the trial and determination of writs of error from the several superior courts included in such judicial districts. And the said court shall at each session in each district dispose of and finally determine each and every case on the docket of such court at the first term after such writ of error brought; and in case the plaintiff in error in any such case shall not be prepared, at such first term of such court, after error brought to prosecute the same, unless precluded by some providential cause from such prosecution, it shall be stricken from the docket, and the judgment below shall stand affirmed. The judges of the superior court shall be elected for the term of four years, and shall continue in office until their successors shall be elected and qualified, removable by the governor on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction thereon. The superior court shall have exclusive jurisdiction in all criminal cases, (except as relates to people of color, and fines for neglect of duty and for contempt of court; for violations against road-laws, and for obstructing water-courses, which shall be vested in such judicature or tribunal as shall be or may have been pointed out by law; and except in all other minor offences committed by free white persons, and which do not subject the offender or offenders to loss of life, limb, or member, or to confinement in the penitentiary; in all such cases corporation courts, such as now exist, or may hereafter be constituted, in any incorporated city, being a sea-port town and a port of entry, may be vested with jurisdiction, under such rules and regulations as the legislature may hereafter by law direct,) which shall be tried in

* This amendment was adopted in the place of a previous amendment of the same section in 1818.



the county where the crime was committed; and in all cases respecting titles to land, which shall be tried in the county where the land lies; and also concurrent jurisdiction in all other civil cases, and shall have power to correct errors in inferior judicatories, by writ of *certiorari*, and to grant new trials in said superior courts on proper and legal grounds; and in all cases where a new trial shall be so allowed, the judge allowing the same shall enter on the minutes of said court his reasons for the same; and the said superior courts shall have appellate jurisdiction in such other cases as may be pointed out by law, in cases arising in inferior judicatories, which shall in no case tend to remove the cause from the county in which the action originated.

RATIFIED 1840.

ARTICLE I. Whereas a part of the third section of the first article of the constitution is in the following words, viz: "The senate shall be elected annually;" and a part of the seventh section of the first article is in the following words: "The representatives shall be chosen annually;" and a part of the twelfth section of the first article is in the following words: "The meeting of the general assembly shall be annually;" and whereas a part of the third section of the third article is in the following words: "There shall be a State's attorney and solicitor appointed by the legislature and commissioned by the governor, who shall hold their offices for the term of three years;" and a part of the fifteenth section of the fourth article is in the following words: "The same shall be published at least six months previous to the next ensuing annual election for members of the general assembly;" and whereas the before-recited clauses require amendments:

SECTION 1. *Be it enacted by the senate aud house of representatives of the State of Georgia, in general assembly met, and it is hereby enacted by the authority of the same,* That so soon as this act shall have passed, agreeably to the requisitions of the constitution, the following shall be adopted in lieu of the foregoing clauses: In the third section of the first article, the following, to wit: "The senate shall be elected biennially, after the passage of this act, the first election to take place on the first Monday in 1843." In lieu of the seventh section of the first article, the following: "The representatives shall be elected biennially, after the passing of this act, the first election to take place the first Monday in October, eighteen hundred and forty-three;" and in lieu of the clause in the twelfth section in the first article, the following: "The meeting of the general assembly shall be biennially, after the passage of this act, on the first Monday in November;" and in lieu of the clause in the third section of the third article, the following, to wit: "There shall be a State attorney and solicitor elected by the legislature, who shall hold their offices for the term of four years;" and in lieu of the clause in the fifteenth section of the fourth article, the following: "The same shall be published at least six months previous to the next ensuing biennial election for members of the general assembly;" the provisions of this act not to go into effect until the year eighteen hundred and forty-three.

RATIFIED 1841.

ART. III. SEC. 3. *So altered and amended as to read:* There shall be a State's attorney and solicitors appointed by the legislature, and commissioned by the governor, who shall hold their offices for the term of four years, or until their successors shall be elected and qualified, unless removed by sentence on impeachment, or by the governor, on the address of two-thirds of each branch of the general assembly. They shall have salaries adequate to their services, established by law, which shall not be increased or diminished during their continuance in office.

ART. IV. SEC. 15. *Amended by striking out the word* "annual."

RATIFIED 1843.

ARTICLE I. SEC. 3. *So altered and amended as to read:* The senate shall be elected biennially on the first Monday in October, and shall consist of forty-seven members, and shall be composed of one member from each senatorial district, which district

shall be composed of two contiguous counties, not including the county with the largest representative population, which shall constitute a separate district; which districts shall be arranged and organized by the general assembly, at the session when this shall be adopted, and if any new county shall be hereafter formed, it shall be annexed to one of the districts from which it was taken.

ARTICLE I. SEC. 7. *So altered and amended as to read:* The house of representatives shall be composed of one hundred and thirty members; each county shall have one representative, and no county shall have more than two representatives; thirty-seven counties having the greatest population, counting all free white persons, and three-fifths of the people of color, shall have two representatives; the said apportionment shall be made by the general assembly, at the session at which this section shall be adopted as an alteration of the constitution, by an act to be introduced after the adoption thereof, and a new apportionment shall be made at the session next after each future enumeration of the inhabitants of this State, made under the constitution and laws thereof, but at no other time.

ART. III. SECTION 1. *Added to the concluding portion of the section, so that it reads:* And in case of a maker and indorser or indorsers of promissory notes residing in different counties in this State, the same may be sued in the county where the maker resides, and a copy of the petition and process served on the indorser or indorsers residing out of the county in which the suit may be commenced shall be deemed sufficient service, under the same rules and regulations as the legislature have or may direct in the case of joint obligors and joint promisors. The superior and inferior courts shall sit in each county twice in every year, at such stated times as have or may be appointed by the legislature.

ART. IV. SEC. 3. *So altered and amended as to read:* It shall and may be lawful for all major-generals and brigadier-generals to be elected by the people of the respective divisions and brigades; and all persons subject to military duty shall be entitled to vote for the same only, and shall be commissioned by the governor. All other officers of the militia shall be elected in such manner as the legislature may direct, and shall be commissioned by the governor; and all militia officers now in commission, and those which may be hereafter commissioned, shall hold their commissions during their usual residence within the division, brigade, regiment, battalion, or company to which they belong, unless removed by sentence of a court-martial, or by the governor on the address of two-thirds of each branch of the general assembly.

RATIFIED 1847.

ART. II. SEC. 3. *So altered and amended as to read:* No person shall be eligible to the office of governor who shall not have been a citizen of the United States twelve years, and an inhabitant of this State six years, and who hath not attained to the age of thirty years.

RATIFIED 1849.

ART. III. SEC. 9. *So altered and amended as to read:* Divorces shall be final and conclusive when the parties shall have obtained the concurrent verdicts of two special juries, authorizing a divorce upon such legal principles as the general assembly may by law prescribe.

CONSTITUTION OF GEORGIA—1861.

[A State convention, called by an act of the legislature, passed an ordinance of secession January 19, 1861, and on March 23, 1861, completed a revision of the State constitution, which was ratified by the people on the first Tuesday of the following July.]

CONSTITUTION OF GEORGIA—1865.*

PREAMBLE.

We, the people of the State of Georgia, in order to form a permanent government, establish justice, insure domestic tranquillity, and secure the blessing of liberty to ourselves and our posterity, acknowledging and invoking the guidance of Almighty God, the author of all good government, do ordain and establish this constitution for the State of Georgia:

ARTICLE I.

DECLARATION OF RIGHTS.

One. Protection to person and property is the duty of government.

Two. No person shall be deprived of life, liberty, or property, except by due process of law.

Three. The writ of *habeas corpus* shall not be suspended unless, in case of rebellion or invasion, the public safety may require it.

Four. A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

Five. Perfect freedom of religious sentiment be, and the same is hereby, secured, and no inhabitant of this State shall ever be molested in person or property, nor prohibited from holding any public office or trust, on account of his religious opinions.

Six. Freedom of speech, and freedom of the press, are inherent elements of political liberty. But while every citizen may freely speak or write or print on any subject, he shall be responsible for the abuse of the liberty.

Seven. The right of the people to appeal to the courts, to petition government on all matters of legitimate cognizance, and peaceably to assemble for the consideration of any matter of public concern, shall never be impaired.

Eight. Every person charged with an offence against the laws of the State shall have the privilege and benefit of counsel, shall be furnished on demand with a copy of the accusation, and list of the witnesses on whose testimony the charge against him is founded; shall have compulsory process to obtain the attendance of his own witnesses; shall be confronted with the witnesses testifying against him, and shall have a public and speedy trial by an impartial jury, as heretofore practised in Georgia.

Nine. No person shall be put in jeopardy of life or liberty more than once for the same offence, save on his or her own motion for a new trial after conviction, or in case of mistrial.

Ten. No conviction shall work corruption of blood or general forfeiture of estate.

Eleven. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Twelve. The powers of the courts to punish for contempt shall be limited by legislative acts.

Thirteen. Legislative acts in violation of the constitution are void, and the judiciary shall so declare them.

Fourteen. *Ex post facto* laws, laws impairing the obligation of contracts, and retroactive laws injuriously affecting any right of the citizen, are prohibited.

Fifteen. Laws should have a general operation, and no general law affecting private rights shall be varied in any particular case by special legislation, except with the free consent, in writing, of all persons to be affected thereby; and no person being under a legal disability to contract is capable of such free consent.

Sixteen. The power of taxation over the whole State shall be exercised by the general assembly only to raise revenue for the support of government, to pay the public debt, to provide for the common defence, and for such other purposes as the general assem-

* A convention, called by Provisional Governor James Johnson, met October 25, 1865, repealed the ordinance of secession October 30, and submitted this constitution to the people November 7, 1865. It was ratified, receiving 17,699 votes.

bly may be specially required or empowered to accomplish by this constitution. But the general assembly may, by statute, grant the power of taxation for designated purposes, with such limitations as they may deem expedient, to county authorities and municipal corporations, to be exercised within their several territorial limits.

Seventeen. In cases of necessity, private ways may be granted upon just compensation being first paid; and with this exception private property shall not be taken, save for public use, and then only on just compensation, to be first provided and paid, unless there be a pressing, unforeseen necessity; in which event the general assembly shall make early provision for such compensation.

Eighteen. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place or places to be searched, and the persons and things to be seized.

Nineteen. The person of a debtor shall not be detained in prison, after delivery, for the benefit of his creditors, of all his estate not expressly exempted by law from levy and sale.

Twenty. The Government of the United States having, as a war-measure, proclaimed all slaves held or owned in this State emancipated from slavery, and having carried that proclamation into full practical effect, there shall henceforth be, within the State of Georgia, neither slavery or involuntary servitude, save as a punishment for crime, after legal conviction thereof: *Provided*, This acquiescence in the action of the Government of the United States is not intended to operate as a relinquishment, waiver, or estoppel of such claim for compensation of loss sustained by reason of the emancipation of his slaves as any citizen of Georgia may hereafter make upon the justice and magnanimity of that Government.

Twenty-one. The enumeration of rights herein contained is a part of this constitution, but shall not be construed to deny to the people any inherent rights which they have hitherto enjoyed.

ARTICLE II.

Section 1. One. The legislative, executive, and judicial departments shall be distinct; and each department shall be confided to a separate body of magistracy. No person, or collection of persons, being of one department, shall exercise any power properly attached to either of the others, except in cases herein expressly provided.

Two. The legislative power shall be vested in a general assembly, which shall consist of a senate and house of representatives, the members whereof shall be elected and returns of the elections made in the manner now prescribed by law (until changed by the general assembly) on the 15th day of November, in the present year, and biennially thereafter, on the first Wednesday of October, to serve until their successors shall be elected; but the general assembly may, by law, change the day of election.

Three. The first meeting of the general assembly, under this constitution, shall be on the first Monday in December next, after which it shall meet annually on the first Thursday in November, or on such other day as the general assembly may prescribe. A majority of each house shall constitute a quorum to transact business, but a smaller number may adjourn from day to day and compel the attendance of its absent members, as each house may provide. No session of the general assembly, after the first above mentioned, shall continue longer than forty days, unless prolonged by a vote of two-thirds of each branch thereof.

Four. No person holding any military commission, or other appointment, having any emolument or compensation annexed thereto, under this State or the United States, or either of them, (except justices of the inferior court, justices of the peace, and officers of the militia,) nor any defaulter for public money, or for any legal taxes required of him, shall have a seat in either branch of the general assembly; nor shall any senator or representative, after his qualification as such, be elected by the general assembly, or appointed by the governor, with the advice and consent of two-thirds of the senate, to any office or appointment having any emolument or compensation annexed thereto, during the time for which he shall have been elected.

Five. No person convicted of any felony before any court of this State, or of the United States, shall be eligible to any office, or appointment of honor, profit, or trust, within this State, until he shall have been pardoned.

Six. No person who is collector or holder of public money shall be eligible to any office in this State until the same is accounted for and paid into the treasury.

SEC. 2. There shall be forty-four senatorial districts in the State of Georgia, each composed of three contiguous counties, from each of which districts one senator shall be chosen, until otherwise arranged, as hereinafter provided.

The said districts shall be constituted of counties as follows:

The first district, of Chatham, Bryan, and Effingham.

The second, of Liberty, Tattnall, and MacIntosh.

The third, of Wayne, Pierce, and Appling.

The fourth, of Glynn, Camden, and Charlton.

The fifth, of Coffee, Ware, and Clinch.

The sixth, of Echols, Lowndes, and Berrien.

The seventh, of Brooks, Thomas, and Colquitt.

The eighth, of Decatur, Mitchell, and Miller.

The ninth, of Early, Calhoun, and Baker.

The tenth, of Dougherty, Lee, and Worth.

The eleventh, of Clay, Randolph, and Terrell.

The twelfth, of Stewart, Webster, and Quitman.

The thirteenth, of Sumter, Schley, and Macon.

The fourteenth, of Dooly, Wilcox, and Pulaski.

The fifteenth, of Montgomery, Telfair, and Irwin.

The sixteenth, of Laurens, Johnson, and Emanuel.

The seventeenth, of Bullock, Scriven, and Burke.

The eighteenth, of Richmond, Glascock, and Jefferson.

The nineteenth, of Taliaferro, Warren, and Greene.

The twentieth, of Baldwin, Hancock, and Washington.

The twenty-first, of Twiggs, Wilkinson, and Jones.

The twenty-second, of Bibb, Monroe, and Pike.

The twenty-third, of Houston, Crawford, and Taylor.

The twenty-fourth, of Marion, Chattahoochee, and Muscogee.

The twenty-fifth, of Harris, Upson, and Talbot.

The twenty-sixth, of Spalding, Butts, and Fayette.

The twenty-seventh, of Newton, Walton, and Clarke.

The twenty-eighth, of Jasper, Putnam, and Morgan.

The twenty-ninth, of Wilkes, Lincoln, and Columbia.

The thirtieth, of Oglethorpe, Madison, and Elbert.

The thirty-first, of Hart, Franklin, and Habersham.

The thirty-second, of White, Lumpkin, and Dawson.

The thirty-third, of Hall, Banks, and Jackson.

The thirty-fourth, of Gwinnett, DeKalb, and Henry.

The thirty-fifth, of Clayton, Fulton, and Cobb.

The thirty-sixth, of Meriwether, Cowetta, and Campbell.

The thirty-seventh, of Troup, Heard, and Carroll.

The thirty-eighth, of Haralson, Polk, and Paulding.

The thirty-ninth, of Cherokee, Milton, and Forsyth.

The fortieth, of Union, Towns, and Rabun.

The forty-first, of Fannin, Gilmer, and Pickens.

The forty-second, of Bartow, Floyd, and Chattooga.

The forty-third, of Murray, Whitfield, and Gordon.

The forty-fourth, of Walker, Dade, and Catoosa.

If a new county be established, it shall be added to a district which it adjoins. The senatorial districts may be changed by the general assembly, but only at the first session after the taking of each new census by the United States Government, and their number shall never be increased.

Two. No person shall be a senator who shall not have attained to the age of twenty-

five years and be a citizen of the United States, and have been for three years an inhabitant of this State, and for one year a resident of the district from which he is chosen.

Three. The presiding officer shall be styled the president of the senate, and shall be elected *viva voce* from their own body.

Four. The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment, shall not extend further than removal from office, and disqualification to hold and enjoy any office of honor, profit, or trust within this State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

SEC. 3. One. The house of representatives shall be composed as follows: The thirty-seven counties having the largest representative population shall have two representatives each. Every other county shall have one representative. The designation of the counties having two representatives shall be made by the general assembly immediately after the taking of each census.

Two. No person shall be a representative who shall not have attained to the age of twenty-one years, and be a citizen of the United States, and have been for three years an inhabitant of the State, and for one year a resident of the county which he represents.

Three. The presiding officer of the house of representatives shall be styled the speaker, and shall be elected *viva voce* from their own body.

Four. They shall have the sole power to impeach all persons who have been or may be in office.

Five. All bills for raising revenue or appropriating money shall originate in the house of representatives; but the Senate may propose or concur in amendments, as in other bills.

SEC. 4. One. Each house shall be the judge of the election returns and qualifications of its own members; and shall have power to punish them for disorderly behavior or misconduct, by censure, fine, imprisonment, or expulsion; but no member shall be expelled except by a vote of two-thirds of the house from which he is expelled.

Two. Each house may punish, by imprisonment, not extending beyond the session, any person not a member, who shall be guilty of a contempt by any disorderly behavior in its presence; or who, during the session, shall threaten injury to the person or estate of any member, for anything said or done in either house; or who shall assault any member therefor or who shall assault or arrest any witness going to or returning therefrom; or who shall rescue, or attempt to rescue, any person arrested by order of either house.

Third. The members of both houses shall be free from arrest during their attendance on the general assembly, and in going to and returning therefrom; except for treason, felony, or breach of the peace. And no member shall be liable to answer in any other place for anything spoken in debate in either house.

Four. Each house shall keep a journal of its proceedings, and publish them immediately after its adjournment. The yeas and nays of the members on any question shall, at the desire of one-fifth of the members present, be entered on the journals. The original journals shall be preserved (after publication) in the office of the secretary of state; but there shall be no other record thereof.

Five. Every bill, before it shall pass, shall be read three times, and on three separate and distinct days, in each house, unless in case of actual invasion or insurrection. Nor shall any law or ordinance pass which refers to more than one subject-matter, or contains matter different from what is expressed in the title thereof.

Six. All acts shall be signed by the president of the senate and the speaker of the house of representatives; and no bill, ordinance, or resolution, intended to have the effect of law, which shall have been rejected by either house, shall be again proposed under the same or any other title without the consent of two-thirds of the house, by which the same was rejected.

Seven. Neither house shall adjourn for more than three days, nor to any other place, without the consent of the other; and in case of disagreement between the two houses on a question of adjournment, the governor may adjourn them.

Eight. Every senator and representative, before taking his seat, shall take an oath or affirmation to support the Constitution of the United States and of this State; and also, that he hath not practised any unlawful means, either directly or indirectly, to procure his election. And every person convicted of having given or offered a bribe shall be disqualified from serving as a member of either house for the term for which he was elected.

Nine. Whenever this constitution requires an act to be passed by two-thirds of both houses, the yeas and nays on the passage thereof shall be entered on the journals of each.

Sec. 5. One. The general assembly shall have power to make all laws and ordinances consistent with this constitution, and not repugnant to the Constitution of the United States, which they shall deem necessary and proper for the welfare of the State.

Two. They may alter the boundaries of counties, and lay off and establish new counties; but every bill to establish a new county shall be passed by at least two-thirds of the members present in each branch of the general assembly.

Three. The general assembly shall have power to appropriate money for the promotion of learning and science, and to provide for the education of the people; and shall provide for the early resumption of the regular exercises of the University of Georgia, by the adequate endowment of the same.

Four. The general assembly shall have power, by a vote of two-thirds of each branch, to grant pardons in cases of final conviction for treason, and to pardon or commute after final conviction in capital cases.

Five. It shall be the duty of the general assembly, at its next session, and thereafter as the public welfare may require, to provide by law for the government of free persons of color; for the protection and security of their persons and property, guarding them and the State against any evil that may arise from their sudden emancipation, and prescribing in what cases their testimony shall be admitted in the courts; for the regulation of their transactions with citizens; for the legalizing of their existing and the contracting and solemnization of their future marital relations, and connected therewith their rights of inheritance and testamentary capacity; and for the regulation or prohibition of their immigration into this State from other States of the Union, or elsewhere. And further, it shall be the duty of the general assembly to confer jurisdiction upon courts now existing, or to create county courts with jurisdiction in criminal cases excepted from the exclusive jurisdiction of the superior court, and in civil cases whereto free persons of color may be parties.

Sec. 6. One. The general assembly shall have no power to grant corporate powers and privileges to private companies, except to banking, insurance, railroad, canal, plank-road, navigation, mining, express, lumber, manufacturing, and telegraph companies; nor to make or change election precincts; nor to establish bridges and ferries; nor to change names, or legitimate children; but shall by law prescribe the manner in which such power shall be exercised by the courts. But no bank-charter shall be granted or extended, and no act passed authorizing the suspension of specie payment by any chartered bank, except by a vote of two-thirds of each branch of the general assembly.

Two. No money shall be drawn from the treasury of this State, except by appropriation made by law; and a regular statement and account of the receipt and expenditure of all public money shall be published from time to time.

Three. No vote, resolution, law, or order shall pass, granting a donation or gratuity in favor of any person, except by the concurrence of two-thirds of the general assembly.

Four. No law shall be passed by which a citizen shall be compelled, directly or indirectly, to become a stockholder in or contribute to a railroad, or other work of internal improvement, without his consent, except the inhabitants of a corporate town or city. This provision shall not be construed to deny the power of taxation for the purpose of making levees or dams to prevent the overflow of rivers.

ARTICLE III.

SECTION 1. One. The executive power shall be vested in a governor, the first of whom under this constitution shall hold the office from the time of his inauguration, as by law provided, until the election and qualification of his successor. Each governor subsequently elected shall hold the office for two years and until his successor shall be elected and qualified, and shall not be eligible to re-election after the expiration of a second term for the period of four years. He shall have a competent salary, which shall not be increased nor diminished during the time for which he shall have been elected; neither shall he receive within that time any other emolument from the United States, or either of them, nor from any foreign power.

Two. The governor shall be elected by the persons qualified to vote for members of the general assembly, on the fifteenth day of November, in the year eighteen hundred and sixty-five, and biennially thereafter, on the first Wednesday of October, until such time be altered by law, which election shall be held at the places of holding general elections in the several counties of this State, in the manner prescribed for the election of members of the general assembly. The returns for every election of governor shall be sealed up by the managers, separately from other returns, and directed to the president of the senate and speaker of the house of representatives; and transmitted to the governor, or the person exercising the duties of governor for the time being; who shall, without opening the said returns, cause the same to be laid before the senate, on the day after the two houses shall have been organized; and they shall be transmitted by the senate to the house of representatives. The members of each branch of the general assembly shall convene in the representative chamber, and the president of the senate and the speaker of the house of representatives shall open and publish the returns in presence of the general assembly; and the person having the majority of the whole number of votes given in shall be declared duly elected governor of this State; but if no person have such majority, then from the two persons having the highest number of votes, who shall be in life, and shall not decline an election at the time appointed for the legislature to elect, the general assembly shall immediately elect a governor *viva voce;* and in all cases of election of a governor by the general assembly, a majority of the votes of the members present shall be necessary for a choice. Contested elections shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

Three. No person shall be eligible to the office of governor who shall not have been a citizen of the United States twelve years, and an inhabitant of this State six years, and who hath not attained the age of thirty years.

Four. In case of the death, resignation, or disability of the governor, the president of the senate shall exercise the executive powers of the government until such disability be removed, or a successor is elected and qualified. And in case of the death, resignation, or disability of the president of the senate, the speaker of the house of representatives shall exercise the executive power of the government until the removal of the disability or the election and qualification of a governor.

Five. The governor shall, before he enters on the duties of his office, take the following oath or affirmation: "I do solemnly swear or affirm (as the case may be) that I will faithfully execute the office of governor of the State of Georgia; and will, to the best of my abilities, preserve, protect, and defend the constitution thereof, and the Constitution of the United States of America."

SEC. 2. One. The governor shall be commander-in-chief of the army and navy of this State, and of the militia thereof.

Two. He shall have power to grant reprieves for offences against the State, except in cases of impeachment, and to grant pardons, or to remit any part of a sentence, in all cases after conviction, except for treason, murder, or other capital offences, in which cases he may respite the execution, and make report thereof to the next general assembly.

Three. He shall issue writs of elections to fill vacancies that happen in the senate or house of representatives, and shall have power to convene the general assembly on extraordinary occasions; and shall give them, from time to time, information of the

state of the republic, and recommend to their consideration such measures as he may deem necessary and expedient.

Four. When any office shall become vacant by death, resignation, or otherwise, the governor shall have power to fill such vacancy unless otherwise provided for by law; and persons so appointed shall continue in office until a successor is appointed, agreeably to the mode pointed out by this constitution, or by law in pursuance thereof.

Five. A person once rejected by the senate shall not be reappointed by the governor to the same office during the same session or the recess thereafter.

Six. The governor shall have the revision of all bills passed by both houses, before the same shall become laws, but two-thirds of each house may pass a law notwithstanding his dissent; and if any bill should not be returned by the governor within five days (Sundays excepted) after it has been presented to him, the same shall be law, unless the general assembly, by their adjournment, shall prevent its return. He may approve any appropriation and disapprove any other appropriation in the same bill, and the latter shall not be effectual unless passed by two-thirds of each house.

Seven. Every vote, resolution, or order, to which the concurrence of both houses may be necessary, except on a question of election or adjournment, shall be presented to the governor; and before it shall take effect be approved by him, or, being disapproved, shall be repassed by two-thirds of each house, according to the rules and limitations prescribed in the case of a bill.

Eight. There shall be a secretary of state, a comptroller-general, a treasurer, and surveyor-general, elected by the general assembly, and they shall hold their offices for the like period as the governor, and shall have a competent salary, which shall not be increased or diminished during the period for which they shall have been elected. The general assembly may at any time consolidate any two of these offices, and require all the duties to be discharged by one officer.

Nine. The great seal of the State shall be deposited in the office of the secretary of state, and shall not be affixed to any instrument of writing but by order of the governor or general assembly; and that used previously to the year 1861 shall be the great seal of the State.

Ten. The governor shall have power to appoint his own secretaries, not exceeding two in number.

ARTICLE IV.

SECTION 1. One. The judicial powers of this State shall be vested in a supreme court for the correction of errors, a superior, inferior, ordinary, and justices' courts, and in such other courts as have been, or may be, established by law.

Two. The supreme court shall consist of three judges, who shall be elected by the general assembly, for such term of years, not less than six, as shall be prescribed by law, and shall continue in office until their successors shall be elected and qualified; removable by the governor on the address of two-thirds of each branch of the general assembly, or by impeachment and conviction thereon.

Three. The said court shall have no original jurisdiction, but shall be a court alone for the trial and correction of errors in law and equity from the superior courts of the several circuits, and from the city courts of the cities of Savannah and Augusta, and such other like courts as may be hereafter established in other cities; and shall sit "at the seat of government" at such time or times in each year as the general assembly shall prescribe, for the trial and determination of writs of error from said courts.

Four. The said court shall dispose of and finally determine every case on the docket of such court, at the first or second term after such writ of error brought; and in case the plaintiff in error shall not be prepared at the first term of such court, after error brought, to prosecute the case, unless precluded by some providential cause from such prosecution, it shall be stricken from the docket and the judgment below affirmed. And in any case that may occur, the court may, in its discretion, withhold its judgment until the term next after the argument thereon.

SEC. 2. One. The judges of the superior courts shall be elected on the first Wednesday in January, until the legislature shall otherwise direct, immediately before the

expiration of the term for which they or either of them may have been appointed or elected, from the circuits in which they are to serve, by a majority vote of the people of the circuit qualified to vote for members of the general assembly, for the term of four years, vacancies to be filled as is provided by the laws of force prior to January 1, 1861, and shall continue in office until their successors shall be elected and qualified; removable by the governor on the address of two-thirds of each branch of the general assembly, or by impeachment and conviction thereon.

Two. The superior court shall have exclusive jurisdiction in all cases of divorce, both total and partial; but no total divorce shall be granted except on the concurrent verdicts of two special juries. In each divorce case, the court shall regulate the rights and disabilities of the parties.

Three. The superior courts shall also have exclusive jurisdiction in all criminal cases, except as relates to fines for neglect of duty, contempts of court, violation of road-laws, obstructions of water-courses, and in all other minor offences which do not subject the offender or offenders to loss of life, limb, or member, or to confinement in the penitentiary; jurisdiction of all such cases shall be vested in such county or corporation courts, or such other courts, judicatures, or tribunals as now exist, or may hereafter be constituted, under such rules and regulations as the legislature may have directed, or may hereafter by law direct.

Four. All criminal cases shall be tried in the county where the crime was committed, except in cases where a jury cannot be obtained.

Five. The superior court shall have exclusive jurisdiction in all cases respecting titles to land, which shall be tried in the county where the land lies; and also in all equity causes which shall be tried in the county where one or more of the defendants reside, against whom substantial relief is prayed.

Six. It shall have appellate jurisdiction in all such cases as may be provided by law.

Seven. It shall have power to correct errors in inferior judicatories by writ of *certiorari*, and to grant new trials in the superior court on proper and legal grounds.

Eight. It shall have power to issue writs of *mandamus*, prohibition, *scire facias*, and all other writs which may be necessary for carrying its powers fully into effect.

Nine. The superior court shall have jurisdiction in all other civil cases, and in them the general assembly may give concurrent jurisdiction to the inferior court, or such other county court as they may hereafter create, which cases shall be tried in the county where the defendant resides.

Ten. In case of joint obligors, or joint promisors or copartners, or joint trespassers residing in different counties, the suit may be brought in either county.

Eleven. In case of a maker and indorser or indorsers of promissory notes residing in different counties in this State, the same may be sued in the county where the maker resides.

Twelve. The superior court shall sit in each county not less than twice in every year, at such stated times as have been or may be appointed by the general assembly, and the inferior and county courts at such times as the general assembly may direct.

SEC. 3. One. The judges shall have salaries adequate to their services fixed by law, which shall not be diminished nor increased during their continuance in office; but shall not receive any other perquisites or emoluments whatever, from parties or others, on account of any duty required of them.

Two. There shall be a State's attorney and solicitors elected in the same manner as the judges of the superior court, and commissioned by the governor, who shall hold their offices for the term of four years, or until their successors shall be appointed and qualified, unless removed by sentence on impeachment, or by the governor on the address of two-thirds of each branch of the general assembly. They shall have salaries adequate to their services fixed by law, which shall not be increased or diminished during their continuance in office.

Three. The justice or justices of the inferior court, and the judges of such other county court as may by law be created, shall be elected in each county by the persons entitled to vote for members of the general assembly.

Four. The justice of the peace shall be elected in each district by the persons entitled to vote for members of the general assembly.

Five. The powers of a court of ordinary and of probate shall be vested in an ordinary for each county, from whose decision there may be an appeal to the superior court, under regulations prescribed by law. The ordinary shall be *ex-officio* clerk of said court, and may appoint a deputy clerk. The ordinary, as clerk, or his deputy, may issue citations, and grant temporary letters of administration, to hold until permanent letters are granted; and said ordinary, as clerk, or his deputy, may grant marriage-licenses. The ordinaries in and for the respective counties shall be elected, as other county officers are, on the first Wednesday in January, 1868, and every fourth year thereafter, and shall be commissioned by the governor for the term of four years. In case of any vacancy of said office of ordinary, from any cause, the same shall be filled by election, as is provided in relation to other county officers, and until the same is filled, the clerk of the superior court for the time being shall act as clerk of said court of ordinary.

ARTICLE V.

SECTION 1. One. The electors or members of the general assembly shall be free white male citizens of this State, and shall have attained the age of twenty-one years, and have paid all taxes which may have been required of them, and which they have had an opportunity of paying, agreeable to law, for the year preceding the election; shall be citizens of the United States, and shall have resided six months either in the district or county, and two years within this State, and no person not qualified to vote for members of the general assembly shall hold any office in this State.

Two. All elections by the general assembly shall be *viva voce*, and the vote shall always appear on the journal of the house of representatives, and where the Senate and house of representatives unite for the purpose of electing, they shall meet in the representative chamber, and the president of the senate shall in such cases preside and declare the person or persons elected.

Three. In all elections by the people the electors shall vote by ballot until the general assembly shall otherwise direct.

Four. All civil officers heretofore commissioned by the governor, or who have been duly appointed, or elected, since the first day of January last, but who have not received their commissions, and who have not resigned, nor been removed from office, and whose terms of office shall not have expired, shall continue in the exercise of the duties of their respective offices during the periods for which they were duly appointed or duly elected as aforesaid, and commissioned, and until their successors shall be appointed under the provisions of this constitution, unless removed from office as herein provided.

Five. Laws of general operation now of force in this State are, 1st, as the supreme law, the Constitution of the United States; the laws of the United States in pursuance thereof, and all treaties made under the authority of the United States; 2d, as next in authority thereto, this constitution; 3d, in subordination to the aforegoing, all laws declared of force by an act of the general assembly of this State, assented to December the 19th, A. D. 1860, entitled "An act to approve, adopt, and make of force, in the State of Georgia, a revised code of laws, prepared under the direction and by authority of the general assembly thereof, and for other purposes therewith connected," an act of the general assembly aforesaid, assented to December 16, A. D. 1861, amendatory of the aforegoing, and an act of the general assembly aforesaid, assented to December 13, A. D. 1862, entitled "An act to settle the conflicts between the code and the legislation of this general assembly;" also, all acts of the general assembly aforesaid, passed since the date last written, altering, amending, repealing, or adding to any portion of law hereinbefore mentioned, (the latter enactments having preference in case of conflict,) and also so much of the common and statute law of England, and of the statute laws of this State of force in Georgia in the year eighteen hundred and sixty, as is not expressly superseded by nor inconsistent with said codes, though not embodied therein; except so much of the law aforesaid as may violate the supreme law herein recognized, or may conflict with this constitution, and except so much thereof as refers to persons held in slavery, which excepted laws shall henceforth be inoperative and void, and any future general

assembly of this State shall be competent to alter, amend, or repeal any portion of the law declared to be of force in this third specification of the fifth clause of this fifth article. If in any statute law herein declared of force the word "Confederate" occurs before the word States, such law is hereby amended by substituting the word "United" for the word "Confederate."

Six. Local and private statutes heretofore passed, intended for the benefit of counties, cities, towns, corporations, and private persons, not inconsistent with the supreme law, nor with this constitution, and which have neither expired by their own limitations nor have been repealed, shall have the force of statute law, subject to judicial decision as to their validity when enacted, and to any limitations imposed by their own terms.

Seven. All judgments, decrees, orders, and other proceedings of the several courts of this State, heretofore made within the limits of their several jurisdictions, are hereby ratified and affirmed, subject only to past and future reversal, by motion for new trial, appeal, bill of review, or other proceedings, in conformity with the law of force when they were made.

Eight. All rights, privileges, and immunities which may have vested in or accrued to any person or persons, in his, her, or their own right, or in any fiduciary capacity, under and in virtue of any act of the general assembly, or of any judgment, decree, or order, or other proceeding of any court of competent jurisdiction in this State, since the first day of January, A. D. eighteen hundred and sixty-one, shall be held inviolate by all courts before which they may be brought in question, unless attacked for fraud.

Nine. The marriage relation between white persons and persons of African descent is forever prohibited, and such marriage shall be null and void; and it shall be the duty of the general assembly to enact laws for the punishment of any officer who shall knowingly issue a license for the celebration of such marriage, or any officer or minister of the gospel who shall marry such persons together.

Ten. All militia and county officers shall be elected by the people, under such regulations as have been or may be prescribed by law.

Eleven. This constitution shall be altered or amended only by a convention of the people, called for that purpose by act of the general assembly.

Signed November 7, 1865.

HERSCHEL V. JOHNSON, *President.*

Attest: J. D. WADDELL, *Secretary.*

CONSTITUTION OF GEORGIA—1868.*

PREAMBLE.

We, the people of Georgia, in order to form a permanent government, establish justice, insure domestic tranquillity, and secure the blessings of liberty to ourselves and our posterity, acknowledging and invoking the guidance of Almighty God, the author of all good government, do ordain and establish this constitution for the State of Georgia:

ARTICLE I.

DECLARATION OF FUNDAMENTAL PRINCIPLES.

SECTION 1. Protection to person and property is the paramount duty of government, and shall be impartial and complete.

SEC. 2. All persons born or naturalized in the United States, and resident in this State, are hereby declared citizens of this State, and no laws shall be made or enforced which shall abridge the privileges or immunities of citizens of the United States, or of

* A convention, called by order of Major-General Meade, met at Atlanta December 8, 1867, and submitted this constitution to the people March 11, 1868. It was ratified, receiving 89,007 votes against 71,309 votes.



this State, or deny to any person within its jurisdiction the equal protection of its laws. And it shall be the duty of the general assembly, by appropriate legislation, to protect every person in the due enjoyment of the rights, privileges, and immunities guaranteed in this section.

SEC. 3. No person shall be deprived of life, liberty, or property, except by due process of law.

SEC. 4. There shall be within the State of Georgia neither slavery nor involuntary servitude, save as a punishment for crime after legal conviction thereof.

SEC. 5. The right of the people to appeal to the courts, to petition government on all matters, and peaceably to assemble for the consideration of any matter, shall never be impaired.

SEC. 6. Perfect freedom of religious sentiment shall be, and the same is hereby, secured, and no inhabitant of this State shall ever be molested in person or property, or prohibited from holding any public office or trust, on account of his religious opinion; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the people.

SEC. 7. Every person charged with an offence against the laws shall have the privilege and benefit of counsel, shall be furnished, on demand, with a copy of the accusation and a list of the witnesses on whose testimony the charge against him is founded, shall have compulsory process to obtain the attendance of his own witnesses, shall be confronted with the witnesses testifying against him, and shall have a public and speedy trial by an impartial jury.

SEC. 8. No person shall be put in jeopardy of life or liberty more than once for the same offence, save on his or her own motion for a new trial after conviction, or in case of mistrial.

SEC. 9. Freedom of speech and freedom of the press are inherent elements of political liberty. But while every citizen may freely speak, or write, or print on any subject, he shall be responsible for the abuse of the liberty.

SEC. 10. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place or places to be searched, and the person or things to be seized.

SEC. 11. The social status of the citizen shall never be the subject of legislation.

SEC. 12. No person shall be molested for his opinions, or be subject to any civil or political incapacity, or acquire any civil or political advantage in consequence of such opinions.

SEC. 13. The writ of *habeas corpus* shall not be suspended unless, in case of rebellion or invasion, the public safety may require it.

SEC. 14. A well-regulated militia being necessary to the security of a free people, the right of the people to keep and bear arms shall not be infringed; but the general assembly shall have power to prescribe by law the manner in which arms may be borne.

SEC. 15. The punishment of all frauds shall be provided by law.

SEC. 16. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted, nor shall any person be abused in being arrested, whilst under arrest, or in prison.

SEC. 17. The power of the courts to punish for contempt shall be limited by legislative acts.

SEC. 18. There shall be no imprisonment for debt.

SEC. 19. In all prosecutions or indictments for libel the truth may be given in evidence, and the jury shall have the right to determine the law and the facts.

SEC. 20. Private ways may be granted upon just compensation being paid by the applicant.

SEC. 21. All penalties shall be proportioned to the nature of the offence.

SEC. 22. Whipping, as a punishment for crime, is prohibited.

SEC. 23. No lottery shall be authorized, or sale of lottery-tickets allowed, in this State, and adequate penalties for such sale shall be provided by law.



SEC. 24. No conviction shall work corruption of blood, and no conviction of treason shall work a general forfeiture of estate longer than during the life of the person attainted.

SEC. 25. Treason against the State of Georgia shall consist only in levying war against the State, or the United States, or adhering to the enemies thereof, giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 26. Laws shall have a general operation, and no general law, affecting private rights, shall be varied, in any particular case, by special legislation, except with the free consent, in writing, of all persons to be affected thereby; and no person under legal disability to contract is capable of such free consent.

SEC. 27. The power of taxation over the whole State shall be exercised by the general assembly only to raise revenue for the support of government, to pay the public debt, to provide a general school-fund, for common defence and for public improvement; and taxation on property shall be *ad valorem* only, and uniform on all species of property taxed.

SEC. 28. The general assembly may grant the power of taxation to county authorities and municipal corporations, to be exercised within their several territorial limits.

SEC. 29. No poll-tax shall be levied except for educational purposes, and such tax shall not exceed one dollar annually on each poll.

SEC. 30. Mechanics and laborers shall have liens upon the property of their employers for labor performed or material furnished, and the legislature shall provide for the summary enforcement of the same.

SEC. 31. The legislative, executive, and judicial departments shall be distinct; and each department shall be confided to a separate body of magistracy. No person, or collection of persons, being of one department, shall exercise any power properly attached to either of the others, except in cases herein expressly provided.

SEC. 32. Legislative acts in violation of this constitution, or the Constitution of the United States, are void, and the judiciary shall so declare them.

SEC. 33. The State of Georgia shall ever remain a member of the American Union: the people thereof are a part of the American nation; every citizen thereof owes paramount allegiance to the Constitution and Government of the United States, and no law or ordinance of this State, in contravention or subversion thereof, shall ever have any binding force.

ARTICLE II.

FRANCHISE AND ELECTIONS.

SECTION 1. In all elections by the people the electors shall vote by ballot.

SEC. 2. Every male person born in the United States, and every male person who has been naturalized, or who has legally declared his intention to become a citizen of the United States, twenty-one years old or upward, who shall have resided in this State six months next preceding the election, and shall have resided thirty days in the county in which he offers to vote, and shall have paid all taxes which may have been required of him, and which he may have had an opportunity of paying, agreeably to law, for the year preceding the election, (except as hereinafter provided,) shall be deemed an elector; and every male citizen of the United States, of the age aforesaid, (except as hereinafter provided,) who may be a resident of the State at the time of the adoption of this constitution, shall be deemed an elector, and shall have all the rights of an elector, as aforesaid: *Provided*, That no soldier, sailor, or marine in the military or naval service of the United States shall acquire the rights of an elector by reason of being stationed on duty in this State; and no person shall vote who, if challenged, shall refuse to take the following oath:

"I do swear that I have not given or received, nor do I expect to give or receive, any money, treat, or other thing of value, by which my vote, or any vote, is affected, or expected to be affected, at this election, nor have I given or promised any reward, or made any threat, by which to prevent any person from voting at this election."

SEC. 3. No person convicted of felony or larceny before any court of this State, or

of or in the United States, shall be eligible to any office or appointment of honor or trust within this State, unless he shall have been pardoned.

SEC. 4. No person who is the holder of any public moneys shall be eligible to any office in this State until the same is accounted for and paid into the treasury.

SEC. 5. No person who, after the adoption of this constitution, being a resident of this State, shall engage in a duel in this State, or elsewhere, or shall send or accept a challenge, or be aider or abettor to such duel, shall vote or hold office in this State; and every such person shall also be subject to such punishment as the law may prescribe.

SEC. 6. The general assembly may provide, from time to time, for the registration of all electors, but the following classes of persons shall not be permitted to register, vote, or hold office: 1st. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crime punishable by law with imprisonment in the penitentiary, or bribery; 2d. Idiots or insane persons.

SEC. 7. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest for five days before an election, during the election, and two days subsequent thereto.

SEC. 8. The sale of intoxicating liquors on days of election is prohibited.

SEC. 9. Returns of election for all civil officers elected by the people, who are to be commissioned by the governor, and also for the members of the general assembly, shall be made to the secretary of state, unless otherwise provided by law.

SEC. 10. The general assembly shall enact laws giving adequate protection to electors before, during, and subsequent to elections.

SEC. 11. The election of governor, members of Congress, and of the general assembly, after the year 1868, shall commence on the Tuesday after the first Monday in November, unless otherwise provided by law.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION 1. One. The legislative power shall be vested in a general assembly, which shall consist of a senate and house of representatives, and, until otherwise directed, the members thereof, after the first election, shall be elected, and the returns of the election made, as now prescribed by law.

Two. The members of the senate shall be elected for four years, except that the members elected at the first election from the twenty-two senatorial districts numbered in this constitution with odd numbers, shall only hold their office for two years. The members of the house of representatives shall be elected for two years. The election for members of the general assembly shall begin on Tuesday after the first Monday in November of every second year, except the first election, which shall be within sixty days after the adjournment of this convention; but the general assembly may by law change the time of election, and the members shall hold until their successors are elected and qualified.

Three. The first meeting of the general assembly shall be within ninety days after the adjournment of this convention, after which it shall meet annually on the second Wednesday in January, or on such other day as the general assembly may prescribe. A majority of each house shall constitute a quorum to transact business; but a smaller number may adjourn from day to day, and compel the presence of its absent members as each house may provide. No session of the general assembly, after the second under this constitution, shall continue longer than forty days, unless prolonged by a vote of two-thirds of each branch thereof.

Four. No person holding a military commission, or other appointment or offices, having any emolument or compensation annexed thereto, under this State or the United States, or either of them, except justices of the peace and officers of the militia, nor any defaulter for public money, or for any legal taxes required of him, shall have a seat in either house; nor shall any senator or representative, after his qualification as such, be elected by the general assembly, or appointed by the governor, either with

or without the advice and consent of the senate, to any office or appointment, having any emolument annexed thereto, during the time for which he shall have been elected.

Five. The seat of a member of either house shall be vacated on his removal from the district from which he was elected.

SEC. 2. One. There shall be forty-four senatorial districts in this State, composed each of three contiguous counties, from each of which districts one senator shall be chosen. Until otherwise arranged, as hereinafter provided, the said districts shall be constituted as follows:

The first district, of Chatham, Bryan, and Effingham.
The second district, of Liberty, Tatnall, and McIntosh.
The third district, of Wayne, Pierce, and Appling.
The fourth district, of Glynn, Camden, and Charlton.
The fifth district, of Coffee, Ware, and Clinch.
The sixth district, of Echols, Lowndes, and Berrien.
The seventh district, of Brooks, Thomas, and Colquitt.
The eighth district, of Decatur, Mitchell, and Miller.
The ninth district, of Early, Calhoun, and Baker.
The tenth district, of Dougherty, Lee, and Worth.
The eleventh district, of Clay, Randolph, and Terrell.
The twelfth district, of Stewart, Webster, and Quitman.
The thirteenth district, of Sumter, Schley, and Macon.
The fourteenth district, of Dooly, Wilcox, and Pulaski.
The fifteenth district, of Montgomery, Telfair, and Irwin.
The sixteenth district, of Laurens, Johnson, and Emanuel.
The seventeenth district, of Bullock, Scriven, and Burke.
The eighteenth district, of Richmond, Glascock, and Jefferson.
The nineteenth district, of Taliaferro, Warren, and Greene.
The twentieth district, of Baldwin, Hancock, and Washington.
The twenty-first district, of Twiggs, Wilkinson, and Jones.
The twenty-second district, of Bibb, Monroe, and Pike.
The twenty-third district, of Houston, Crawford, and Taylor.
The twenty-fourth district, of Marion, Chattahoochee, and Muscogee.
The twenty-fifth district, of Harris, Upson, and Talbot.
The twenty-sixth district, of Spalding, Butts, and Fayette.
The twenty-seventh district, of Newton, Walton, and Clarke.
The twenty-eighth district, of Jasper, Putnam, and Morgan.
The twenty-ninth district, of Wilkes, Lincoln, and Columbia.
The thirtieth district, of Oglethorpe, Madison, and Elbert.
The thirty-first district, of Hart, Franklin, and Habersham.
The thirty-second district, of White, Lumpkin, and Dawson.
The thirty-third district, of Hall, Banks, and Jackson.
The thirty-fourth district, of Gwinnett, DeKalb, and Henry.
The thirty-fifth district, of Clayton, Fulton, and Cobb.
The thirty-sixth district, of Meriwether, Coweta, and Campbell.
The thirty-seventh district, of Troup, Heard, and Carroll.
The thirty-eighth district, of Haralson, Polk, and Paulding.
The thirty-ninth district, of Cherokee, Milton, and Forsyth.
The fortieth district, of Union, Towns, and Rabun.
The forty-first district, of Fannin, Gilmer, and Pickens.
The forty-second district, of Bartow, Floyd, and Chattooga.
The forty-third district, of Murray, Whitfield, and Gordon.
The forty-fourth district, of Walker, Dade, and Catoosa.

If a new county be established it shall be added to a district which it adjoins, and from which the larger portion of its territory is taken. The senatorial districts may be changed by the general assembly, but only at the first session after the publication of each census by the United States Government, and their number shall not be increased.

Two. The senators shall be citizens of the United States, who have attained the

age of twenty-five years, and who, after the first election under this constitution, shall have been citizens of this State for two years, and for one year resident of the district from which elected.

Three. The presiding officer of the senate shall be styled the president of the senate, and shall be elected *viva voce* from the senators.

Four. The senate shall have the sole power to try impeachments. When sitting for that purpose the members shall be on oath or affirmation, and shall be presided over by one of the judges of the supreme court, selected for that purpose by a *viva-voce* vote of the senate; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgments in cases of impeachment shall not extend further than removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit within this State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

SEC. 3. One. The house of representatives shall consist of one hundred and seventy-five representatives, apportioned as follows: to the six largest counties, to wit, Chatham, Richmond, Fulton, Bibb, Houston, and Burke, three representatives each; to the thirty-one next largest, to wit, Bartow, Columbia, Cobb, Coweta, Clarke, Decatur, Dougherty, Floyd, Gwinnett, Greene, Hancock, Harris, Jefferson, Lee, Muscogee, Monroe, Meriwether, Morgan, Macon, Newton, Oglethorpe, Pulaski, Randolph, Sumter, Stewart, Troup, Thomas, Talbot, Washington, Wilkes, and Warren, two representatives each; and to the remaining ninety-five counties, one representative each.

Two. The above apportionment may be changed by the general assembly after each census by the United States Government, but in no event shall the aggregate number of representatives be increased.

Three. The representatives shall be citizens of the United States who have attained the age of twenty-one years, and who, after the first election under this constitution, shall have been citizens of this State for one year, and for six months resident of the counties from which elected.

The presiding officer of the house of representatives shall be styled the speaker of the house of representatives, and shall be elected *viva voce* from the body.

Five. The house of representatives shall have the sole power to impeach all persons who shall have been or may be in office.

Six. All bills for raising revenue, or appropriating money, shall originate in the house of representatives, but the senate may propose or concur in amendments, as in other bills.

SEC. 4. One. Each house shall be the judge of the election, returns, and qualifications of its members, and shall have power to punish them for disorderly behavior, or misconduct, by censure, fine, imprisonment, or expulsion; but no member shall be expelled, except by a vote of two-thirds of the house from which he is expelled.

Two. Each house may punish, by imprisonment, not extending beyond the session, any person, not a member, who shall be guilty of a contempt by any disorderly behavior in its presence, or who, during the session, shall threaten injury to the person or estate of any member for anything said or done in either house, or who shall assault any member going to or returning therefrom, or who shall rescue or attempt to rescue any person arrested by order of either house.

Three. The members of both houses shall be free from arrest during their attendance on the general assembly, and in going to or returning therefrom, except for treason, felony, larceny, or breach of the peace; and no member shall be liable to answer in any other place for anything spoken in debate in either house.

Four. Each house shall keep a journal of its proceedings, and publish it immediately after its adjournment. The yeas and nays of the members on any question shall, at the desire of one-fifth of the members present, be entered on the journal. The original journal shall be preserved, after publication, in the office of the secretary of state, but there shall be no other record thereof

Five. Every bill, before it shall pass, shall be read three times, and on three separate days, in each house, unless in cases of actual invasion or insurrection. Nor shall any law or ordinance pass which refers to more than one subject-matter, or contains matter different from what is expressed in the title thereof.

Six. All acts shall be signed by the president of the senate and the speaker of the house of representatives; and no bill, ordinance, or resolution, intended to have the effect of a law, which shall have been rejected by either house, shall be again proposed during the same session, under the same or any other title, without the consent of two-thirds of the house by which the same was rejected.

Seven. Neither house shall adjourn for more than three days, nor to any other place, without the consent of the other; and in case of disagreement between the two houses on a question of adjournment, the governor may adjourn either or both of them.

Eight. The officers of the two houses, other than the president and speaker, shall be a secretary of the senate, and clerk of the house, and an assistant for each; a journalizing clerk, two engrossing and two enrolling clerks for each house, and the number shall not be increased except by a vote of the house. And their pay, as well as the pay and mileage of the members, shall be fixed by law.

Nine. Whenever the constitution requires a vote of two-thirds of either or both houses for the passing of an act or resolution, the yeas and nays on the passage thereof shall be entered on the journal, and all votes on confirmations, or refusals to confirm nominations to office by the governor, shall be by yeas and nays, and the yeas and nays shall be recorded on the journal.

Ten. Every senator, or representative, before taking his seat, shall take an oath, or affirmation, to support the Constitution of the United States, and of this State; that he has not practised any unlawful means, directly or indirectly, to procure his election, and that he has not given, or offered, or promised, or caused to be given, or offered, or promised, to any person, any money, treat, or thing of value, with intent to affect any vote, or to prevent any person voting at the election at which he was elected.

SEC. 5. One. The general assembly shall have power to make all laws and ordinances, consistent with this constitution, and not repugnant to the Constitution of the United States, which they shall deem necessary and proper for the welfare of the State.

Two. The general assembly may alter the boundaries of, or lay off or establish new counties, or abolish counties, attaching the territory thereof to contiguous counties; but no new county shall be established except by a vote of two-thirds of each house; nor shall any county be abolished except by a vote of two-thirds of each house, and after the qualified voters of the county shall, at an election held for the purpose, so decide.

SEC. 6. One. No money shall be drawn from the treasury except by appropriation made by law; and a regular statement and account of the receipt and expenditure of all public money shall be published from time to time, and, also, with the laws passed by each session of the general assembly.

Two. No vote, resolution, law, or order, shall pass, granting a donation, or gratuity, in favor of any person, except by the concurrence of two-thirds of each branch of the general assembly, nor, by any vote, to a sectarian corporation or association.

Three. No law or section of the code shall be amended or repealed by mere reference to its title, or to the number of the section in the code, but the amending or repealing act shall distinctly and fully describe the law to be amended or repealed, as well as the alteration to be made; but this clause shall be construed as directory only to the general assembly.

Four. No law shall be passed by which a citizen shall be compelled against his consent, directly or indirectly, to become a stockholder in, or contribute to, any railroad or work of public improvement, except in the case of the inhabitants of a corporate town or city. In such cases, the general assembly may permit the corporate authorities to take such stock, or make such contribution, or engage in such work, after a majority of the qualified voters of such town or city, voting at an election held for the purpose, shall have voted in favor of the same; but not otherwise.

Five. The general assembly shall have no power to grant corporate powers and privileges to private companies, except to banking, insurance, railroad, canal, navigation, mining, express, lumber, manufacturing, and telegraph companies; nor to make,

or change, election precincts; nor to establish bridges or ferries; nor to change names or legitimate children; but it shall prescribe, by law, the manner in which such powers shall be exercised by the courts. But no charter for any bank shall be granted or extended, and no act passed authorizing the suspension of specie payments by any bank, except by a vote of two-thirds of the general assembly. The general assembly shall pass no law making the State a stockholder in any corporate company; nor shall the credit of the State be granted or loaned to aid any company without a provision that the whole property of the company shall be bound for the security of the State, prior to any other debt or lien, except to laborers; nor to any company in which there is not already an equal amount invested by private persons; nor for any other object than a work of public improvement. No provision in this constitution for a two-thirds vote of both houses of the general assembly shall be construed to waive the necessity for the signature of the governor, as in any other cases, except in the case of the two-thirds vote required to override the veto.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. One. The executive power shall be vested in a governor, who shall hold his office during the term of four years, and until such time as a successor shall be chosen and qualified. He shall have a competent salary, established by law, which shall not be increased or diminished during the period for which he shall have been elected; nor shall he receive within that period any other emolument from the United States, or either of them, or from any foreign power.

Two. After the first election, the governor shall be elected quadrennially, by the persons qualified to vote for members of the general assembly, on the Tuesday after the first Monday in November, until such time be altered by law, which election shall be held at the places of holding general elections in the several counties of this State, in the same manner as is prescribed for the election of members of the general assembly. The returns for every election of governor, after the first, shall be sealed up by the managers, separately from other returns, and directed to the president of the senate and speaker of the house of representatives, and transmitted to his excellency the governor, or the person exercising the duties of governor for the time being, who shall, without opening the said returns, cause the same to be laid before the senate on the day after the two houses shall have been organized; and they shall be transmitted by the senate to the house of representatives. The members of each branch of the general assembly shall convene in the representative hall, and the president of the senate and the speaker of the house of representatives shall open and publish the returns in the presence of the general assembly; and the person having the majority of the whole number of votes given shall be declared duly elected governor of this State; but if no person have such majority, then from the two persons having the highest number of votes, who shall be in life, and shall not decline an election at the time appointed for the legislature to elect, the general assembly shall immediately elect a governor *viva voce;* and in all cases of election of a governor by the general assembly, a majority of the votes of the members present shall be necessary for a choice. Contested elections shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

Three. No person shall be eligible to the office of governor who shall not have been a citizen of the United States fifteen years, and a citizen of this State six years, and who shall not have attained the age of thirty years.

Four. In case of the death, resignation, or disability of the governor, the president of the senate shall exercise the executive powers of the government until such disability be removed or a successor is elected and qualified. And in case of the death, resignation, or disability of the president of the senate, the speaker of the house of representatives shall exercise the executive powers of the government until the removal of the disability or the election and qualification of a governor. The general

assembly shall have power to provide by law for filling unexpired terms by a special election.

Five. The governor shall, before he enters on the duties of his office, take the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will faithfully execute the office of governor of the State of Georgia, and will, to the best of my ability, preserve, protect, and defend the constitution thereof, and the Constitution of the United States of America."

SEC. 2. One. The governor shall be commander-in-chief of the army and navy of this State, and of the militia thereof.

Two. He shall have power to grant reprieves and pardons, to commute penalties, and to remit any part of a sentence for offences against the State, except in cases of impeachment.

Three. He shall issue writs of election to fill all vacancies that happen in the senate or house of representatives, and shall have power to convoke the general assembly on extraordinary occasions, and shall give them, from time to time, information of the state of the commonwealth, and recommend to their consideration such measures as he may deem necessary and expedient.

Four. When any office shall become vacant by death, resignation, or otherwise, the governor shall have power to fill such vacancy, unless otherwise provided by law; and persons so appointed shall continue in office until a successor is appointed, agreeably to the mode pointed out by this constitution, or by law, in pursuance thereof.

Five. A person once rejected by the senate shall not be reappointed by the governor to the same office during the same session, or the recess thereafter.

Six. The governor shall have the revision of all bills passed by both houses before the same shall become laws, but two-thirds of each house may pass a law, notwithstanding his dissent, and if any bill should not be returned by the governor within five days (Sunday excepted) after it has been presented to him, the same shall be a law, unless the general assembly, by their adjournment, shall prevent its return. He may approve any appropriation and disapprove any other appropriation in the same bill, and the latter shall not be effectual unless passed by two-thirds of each house.

Seven. Every vote, resolution, or order, to which the concurrence of both houses may be necessary, except on a question of election or adjournment, shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, shall be repassed by two-thirds of each house, according to the rules and limitations prescribed in case of a bill.

Eight. There shall be a secretary of state, a comptroller-general, a treasurer, and surveyor-general, elected by the general assembly, and they shall hold their offices for the like period as the governor, and shall have a competent salary, which shall not be increased or diminished during the period for which they shall have been elected. The general assembly may, at any time, consolidate any two of these offices, and require all the duties to be discharged by one officer.

Nine. The great seal of the State shall be deposited in the office of the secretary of state, and shall not be affixed to any instrument of writing but by order of the governor, or general assembly; and that now in use shall be the great seal of the State until otherwise provided by law.

Ten. The governor shall have power to appoint his own secretaries, not exceeding two in number, unless more shall be authorized by the general assembly.

ARTICLE V.

JUDICIAL DEPARTMENT.

SECTION 1. One. The judicial powers of this State shall be vested in a supreme court, superior courts, courts of ordinary, justices of the peace, commissioned notaries public, and such other courts as have been or may be established by law.

SEC. 2. One. The supreme court shall consist of three judges, two of whom shall constitute a quorum. When a majority of the judges are disqualified from deciding

any case, by interest or otherwise, the governor shall designate certain judges of the superior courts to sit in their stead. At the first appointment of judges of the supreme court under this constitution, one shall be appointed for four years, one for eight years, and one for twelve years; but all subsequent appointments, except to fill unexpired terms, shall be for the term of twelve years.

Two. The supreme court shall have no original jurisdiction, but shall be a court alone for the trial and correction of errors from the superior courts and from the city courts of Savannah and Augusta, and such other like courts as may be hereafter established in other cities; and shall sit at the seat of government at such times in each year as shall be prescribed by law, for the trial and determination of writs of error from said superior and city courts. The days on which the cases from the several circuits and city courts shall be taken up by the court shall be fixed by law.

Three. The supreme court shall dispose of every case at the first or second term after such writ of error is brought; and in case the plaintiff in error shall not be prepared at the first term to prosecute the case, unless prevented by providential cause, it shall be stricken from the docket, and the judgment below shall stand affirmed. In any case the court may, in its discretion, withhold its judgment until the next term after the same is argued.

Four. When only two judges sit in any case, and they disagree, the judgment below shall stand affirmed.

Sec. 3. One. There shall be a judge of the superior courts for each judicial circuit. He may act in other circuits when authorized by law. At the first appointment of such judges under this constitution, one-half of the number (as near as may be) shall be appointed for four years, and the other half for eight years; but all subsequent appointments, except to fill unexpired terms, shall be for the term of eight years.

Two. The superior courts shall have exclusive jurisdiction in cases of divorce; in criminal cases, where the offender is subjected to loss of life or confinement in the penitentiary; in cases respecting titles to land and equity cases, except as hereinafter provided; but the general assembly shall have power to merge the common law and equity jurisdiction of said courts. Said courts shall have jurisdiction in all other civil cases, except as hereinafter provided. They shall have appellate jurisdiction in all such cases as may be provided by law; they shall have power to correct errors in inferior judicatories, by writ of *certiorari*, which shall only issue on the sanction of the judge; and to issue writs of *mandamus*, prohibition, *scire facias*, and all other writs that may be necessary for carrying their powers fully into effect, and shall have such other powers as shall be conferred on them by law.

Three. There shall be no appeal from one jury in the superior courts to another, but the court may grant new trials on legal grounds. The court shall render judgment without the verdict of a jury in all civil cases founded on contract, where an issuable defence is not filed on oath.

Four. The superior courts shall sit in each county not less than twice in each year, at such times as have been or may be appointed by law.

Sec. 4. One. Until the general assembly shall otherwise direct, there shall be a district judge and a district attorney for each senatorial district in this State.

Two. The district judge shall have jurisdiction to hear and determine all offences not punishable with death or imprisonment in the penitentiary; and it shall be the duty of the district attorney to represent the State in all cases before the district judge.

Three. The district judge shall sit at stated times, not less than once in each month in each county in his district for the trial of offences, and at such other times as the general assembly may direct.

Four. Offences shall be tried before the district judge on a written accusation founded on affidavit; said accusation shall plainly set forth the offence charged, and shall contain the name of the accuser, and be signed by the district attorney.

Five. There shall be no jury-trial before the district judge except when demanded by the accused, in which case the jury shall consist of seven.

Six. Such civil jurisdiction may be conferred on the district judges as the general assembly may direct.

Seven. The district judges and attorneys shall hold their offices for a period of four

years, and shall receive for their services such stated compensation in their respective districts as may be provided by law, but in no event shall their compensation be in anywise dependent on fines, forfeitures, or costs.

SEC. 5. One. The powers of a court of ordinary and of probate shall be vested in an ordinary for each county, from whose decision there may be an appeal to the superior court, under regulations prescribed by law.

Two. The courts of ordinary shall have such powers in relation to roads, bridges, ferries, public buildings, paupers, county officers, county funds and taxes, and other matters, as shall be conferred on them by law.

Three. The ordinary shall hold his office for the term of four years, and until his successor is elected and qualified.

SEC. 6. One. There shall be in each district one justice of the peace, whose official term, except when elected to fill an unexpired term, shall be four years.

Two. The justices of the peace shall have jurisdiction, except as hereinafter provided, in all civil cases where the principal sum claimed does not exceed one hundred dollars, and may sit at any time for the trial of such cases; but in cases where the sum claimed is more than fifty dollars, there may be an appeal to the superior court, under such regulations as may be prescribed by law.

Three. There shall be no appeal to a jury from the decision of a justice of the peace, except as provided in the foregoing paragraph.

Four. Notaries public may be appointed and commissioned by the governor, not to exceed one for each militia district, for a term of four years, and shall be *ex-officio* justices of the peace.

SEC. 7. One. There shall be an attorney-general of the State, whose official term, except when appointed to fill an unexpired term, shall be four years.

Two. It shall be the duty of the attorney-general to act as the legal adviser of the executive department, to represent the State in all civil and criminal cases in the supreme and superior courts when required by the governor, and to perform such other services as shall be required of him by law.

SEC. 8. One. There shall be a solicitor-general for each judicial circuit, whose official term, except when appointed to fill an unexpired term, shall be four years.

Two. It shall be the duty of the solicitor-general to represent the State in all cases in the superior courts of his circuit, and in all cases taken up from his circuit to the supreme court, and to perform such other services as shall be required of him by law.

SEC. 9. One. The judges of the supreme and the superior courts, the attorney-general, solicitors-general, and the district judges and attorneys, shall be appointed by the governor, with the advice and consent of the senate, and shall be removable by the governor on the address of two-thirds of each branch of the general assembly, or by impeachment and conviction thereon.

Two. Justices of the peace shall be elected by the legal voters in their respective districts, and shall be commissioned by the governor. They shall be removable on conviction for malpractice in office.

SEC. 10. One. The judges of the supreme and superior courts and the attorney and solicitors general shall have, out of the State treasury, adequate and honorable salaries on the specie basis, which shall not be increased or diminished during their continuance in office. The district judges and district attorneys shall receive, out of the treasuries of the several counties of their districts, adequate compensation, on the specie basis, which shall not be increased or diminished during their term of office; but said judges shall not receive any other perquisites or emoluments whatever from parties or others on account of any duty required of them.

Two. The general assembly shall provide for the equitable apportionment of the compensation of the district judges and attorneys between the counties composing their districts, and shall require the moneys arising from fines and forfeitures in the district courts to be paid into the treasuries thereof.

Three. No person shall be judge of the supreme or superior courts, or attorney-general, unless at the time of his appointment he shall have attained the age of thirty years, and shall have been a citizen of this State three years, and have practised law for seven years.

SEC. 11. One. No total divorce shall be granted except on the concurrent verdicts of two juries. When a divorce is granted, the jury rendering the final verdict shall determine the rights and disabilities of the parties, subject to the revision of the court.

SEC. 12. One. Divorce cases shall be tried in the county where the defendant resides, if a resident of this State.

Two. Criminal cases shall be tried in the county where the crime was committed, except cases in the superior courts when the presiding judge is satisfied that an impartial jury cannot be obtained in such county.

Three. Cases respecting titles to land shall be tried in the county where the land lies, except where a single tract is divided by a county-line, in which case the superior court of either county shall have jurisdiction.

Four. Equity cases shall be tried in the county where a defendant resides against whom substantial relief is prayed.

Five. Suits against joint promisors, copartners, or joint trespassers, residing in different counties, may be tried in either county.

Six. Suits against the maker and indorser of promissory notes, or other like instruments, residing in different counties, shall be tried in the county where the maker resides.

Seven. All other cases shall be tried in the county where the defendant resides.

SEC. 13. One. The right of trial by jury, except where it is otherwise provided in this constitution, shall remain inviolate.

Two. The general assembly shall provide by law for the selection of upright and intelligent persons to serve as jurors. There shall be no distinction between the classes of persons who compose grand and petit juries. Jurors shall receive adequate compensation for their services, to be prescribed by law.

SEC. 14. One. The courts heretofore existing in this State styled inferior courts are abolished, and their unfinished business, and the duties of the justices thereof, are transferred to such tribunals as the general assembly may designate.

SEC. 15. One. The general assembly shall have power to provide for the creation of county commissioners in such counties as may require them, and to define their duties.

SEC. 16. One. All courts not specially mentioned by name in the first section of this article may be abolished in any county, at the discretion of the general assembly, and the county courts now existing in Georgia are hereby abolished.

SEC. 17. One.* No court or officer shall have, nor shall the general assembly give,

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* The act of Congress, approved June 25, 1868, admitting the State of Georgia to representation in Congress, amended and abridged this subdivision, which in the original constitution read as follows:

"SEC. 17. One. No court in this State shall have jurisdiction to try or determine any suit against any resident of this State upon any contract or agreement made or implied, or upon any contract made in renewal of any debt existing prior to the 1st day of June, 1865; nor shall any court or ministerial officer of this State have authority to enforce any judgment, execution, or decree rendered or issued upon any contract or agreement made or implied, or upon any contract in renewal of a debt existing prior to the 1st day of June, 1865, except in the following cases:

"1. In suits against trustees, where the trust-property is in the hands of the trustee, or has been invested by him in other specific effects now in his hands, and in suits by the vendor of real estate against the vendee, where not more than one-third of the purchase-money has been paid, and the vendee is in possession of the land or specific effects for which he has sold it, and he refuses to deliver the land or said effects to the vendor. In such cases the courts and officers may entertain jurisdiction and enforce judgments against said trust-property or land or effects.

"2. In suits for the benefit of minors by trustees appointed before the 1st day of June, 1865.

"3. In suits against corporations in their corporate capacity, but not so as to enforce the debt against the stockholders or officers thereof in their individual capacity.

"4. In suits by charitable or literary institutions for money loaned, property (other than slaves) sold, or services rendered by such institutions.

"5. In suits on debts due for mechanical or manual labor when the suit is by the mechanic or laborer.

"6. In cases when the debt is set up by way of defence, and the debt set up exceeds any debt due by defendant to plaintiff of which the courts are denied jurisdiction.

"7. In all other cases in which the general assembly shall, by law, give the said courts and officers jurisdiction: *Provided*, That no court or officer shall have, nor shall the general assembly give, jurisdiction or authority to try or give judgment on or enforce any debt, the consideration of which was a slave or slaves, or the hire thereof."

jurisdiction or authority to try or give judgment on or enforce any debt, the consideration of which was a slave or slaves, or the hire thereof.

Two. All contracts made and not executed during the late rebellion, with the intention and for the purpose of aiding and encouraging said rebellion, or where it was the purpose and intention of any one of the parties to such contract to aid or encourage such rebellion, and that fact was known to the other party, whether said contract was made by any person or corporation with the State or Confederate States, or by a corporation with a natural person, or between two or more natural persons, are hereby declared to have been and to be illegal, and all bonds, deeds, promissory notes, bills, or other evidences of debt, made or executed by the parties to such contract, or either of them, in connection with such illegal contract, or as the consideration therefor or in furtherance thereof, are hereby declared null and void, and shall be so held in all courts in this State when attempt shall be made to enforce any such contract or give validity to any such obligation or evidence of debt. And in all cases when the defendant or any one interested in the event of the suit will make a plea, supported by his or her affidavit, that he or she has reason to believe that the obligation or evidence of indebtedness upon which the suit is predicated, or some part thereof, has been given or used for the illegal purpose aforesaid, the burden of proof shall be upon the plaintiff to satisfy the court and jury that the bond, deed, note, bill, or other evidence of indebtedness upon which said suit is brought, is or are not, nor is any part thereof, founded upon or in any way connected with any such illegal contract, and has not been used in aid of the rebellion, and the date of such bond, deed, note, bill, or other evidence of indebtedness shall not be evidence that it has or has not, since its date, been issued, transferred, or used in aid of the rebellion.*

ARTICLE VI.

EDUCATION.

One. The general assembly, at its first session after the adoption of this constitution, shall provide a thorough system of general education, to be forever free to all children of the State, the expense of which shall be provided for by taxation or otherwise.

Two. The office of State school commissioner is hereby created. He shall be appointed by the governor with the consent of the senate, and shall hold his office for the same term as the governor. The general assembly shall provide for the said commissioner a competent salary and necessary clerks. He shall keep his office at the seat of government.

Three. The poll-tax allowed by this constitution, any educational fund now belonging to this State, except the endowment of and debt due to the State university, or that may hereafter be obtained in any way, a special tax on shows and exhibitions, and on the sale of spirituous and malt liquors, which the general assembly is hereby authorized to assess, and the proceeds from the commutation for militia service, are hereby set apart and devoted to the support of common schools. And if the provisions herein made shall, at any time, prove insufficient, the general assembly shall have power to levy such general tax upon the property of the State as may be necessary for the support of said school-system. And there shall be established, as soon as practicable, one or more common schools in each school-district in this State.

* The act of Congress, approved June 25, 1868, admitting the State of Georgia to representation in Congress, declared null and void a third subdivision of section seventeen of the fifth article, which in the original constitution read as follows:

"Three. It shall be in the power of the general assembly to assess and collect upon all debts, judgments, or causes of action when due, founded on any contract made or implied before the 1st day of June, 1865, in the hands of any one in his own right, or as trustee, agent, or attorney of another, on or after the 1st day of January, 1868, a tax of not exceeding twenty-five per cent., to be paid by the creditor on pain of the forfeiture of the debt, but chargeable by him as to one-half thereof against the debtor, and collectible with the debt: *Provided*, That this tax shall not be collected if the debt or cause of action be abandoned or settled without legal process, or, if in judgment, be settled without levy and sale: *And provided further*, That this tax shall not be levied so long as the courts of this State shall not have jurisdiction of such debts or causes of action."

ARTICLE VII.

HOMESTEAD AND EXEMPTION.

SECTION 1. One. Each head of a family, or guardian, or trustee, of a family of minor children, shall be entitled to a homestead of realty to the value of $2,000 in specie, and personal property to the value of $1,000 in specie, both to be valued at the time they are set apart. And no court or ministerial officer in this State shall ever have jurisdiction or authority to enforce any judgment, decree, or execution against said property so set apart, including such improvements as may be made thereon, from time to time, except for taxes, money borrowed and expended in the improvement of the homestead, or for the purchase-money of the same, and for labor done thereon, or material furnished therefor, or removal of encumbrances thereon. And it shall be the duty of the general assembly, as early as practicable, to provide, by law, for the setting apart and valuation of said property, and to enact laws for the full and complete protection and security of the same to the sole use and benefit of said families as aforesaid.

Two. All property of the wife, in her possession at the time of her marriage, and all property given to, inherited, or acquired by her, shall remain her separate property, and not be liable for the debts of her husband.

ARTICLE VIII.

MILITIA.

SECTION 1. The militia shall consist of all able-bodied male persons between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States or this State; and shall be organized, officered, armed, equipped, and trained in such manner as may be provided by law; subject to the paramount authority of Congress over this subject.

SEC. 2. Volunteer companies of cavalry, infantry, or artillery may be formed in such manner, and with such restrictions, as may be provided by law.

SEC. 3. No person conscientiously opposed to bearing arms shall be compelled to do militia duty, but such person shall pay an equivalent for exemption; the amount to be prescribed by law and appropriated to the common-school fund.

ARTICLE IX.

COUNTY OFFICERS.

One. The county officers recognized as existing by the laws of this State, and not abolished by this constitution, shall, where not otherwise provided for in this constitution, be elected by the qualified voters of their respective counties or districts, and shall hold their offices for two years. They shall be removable on conviction for malpractice in office, or on the address of two-thirds of the senate.

ARTICLE X.

SEAT OF GOVERNMENT.

One. The seat of government of this State, from and after the date of the ratification of this constitution, shall be in the city of Atlanta, and the general assembly shall provide for the erection of a new capitol, and such other buildings as the public welfare may require.

Two. The general assembly shall have power to provide for the temporary removal of the seat of government in case of invasion, pestilence, or other emergency.

ARTICLE XI.

THE LAWS OF GENERAL OPERATION IN FORCE IN THIS STATE ARE—

One. As the supreme law, the Constitution of the United States, the laws of the United States in pursuance thereof, and all treaties made under the authority of the United States.

Two. As next in authority thereto, this constitution.

Three. In subordination to the foregoing, all acts passed by any legislative body, sitting in this State as such, since the 19th day of January, 1861, including that body of laws known as the code of Georgia, and the acts amendatory thereof, or passed since that time, which said code and acts are embodied in the printed book known as "Irwin's Code;" and also so much of the common and statute laws of England, and of the statute laws of Georgia, as were in force in this State on the 19th day of December, 1860, as are not superseded by said code, though not embodied therein, except so much of the said several statutes, code, and laws as may be inconsistent with the supreme law herein recognized, or may have been passed in aid of the late rebellion against the United States, or may be obsolete, or may refer to persons held in slavery, which excepted laws are inoperative and void; and any future general assembly shall be competent to alter or repeal (if not herein prohibited) any portion of the laws declared to be of force in this third specification of this clause of this article; and if in any of said laws herein declared of force the word "Confederate" occurs before the word "States," such law is hereby amended by substituting the word "United" for the word "Confederate."

Four. Local and private acts passed for the benefit of counties, cities, towns, corporations, and private persons, not inconsistent with the supreme law, nor with this constitution, and which have not expired or been repealed, shall have the force of statute law, subject to judicial decision as to their validity when passed, and to any limitations imposed by their own terms.

Five. All rights, privileges, and immunities which may have vested in, or accrued to, any person or persons, or corporation, in his, her, or their own right, or in any fiduciary capacity, under any act of any legislative body sitting in this State as such, or of any decree, judgment, or order of any court, sitting in this State, under the laws then of force and operation therein, and recognized by the people as a court of competent jurisdiction, since the 19th day of January, 1861, shall be held inviolate by all the courts of this State, unless attacked for fraud, or unless otherwise declared invalid by, or according to, this constitution.

Six. The records, dockets, books, papers, and proceedings of any court or office existing in this State by the laws thereof on the 19th of January, 1861, or purporting to exist by said laws, and recognized and generally obeyed by the people, as such, since the said time, and before the several courts and officers provided for by this constitution shall have gone into actual operation, shall be transferred to the several courts and offices of the same name or functions by this constitution provided for, and shall have force and be executed, perfected, and performed therein, and thereby, as follows, and not otherwise, to wit:

Final judgments, decrees, proceedings, and acts fully executed and performed, or not requiring performance or execution, shall have full force and effect as though no interruption had taken place in the legal succession of said courts and offices, except as herein otherwise provided. Proceedings not final, and judgments and decrees not fully executed or performed, shall proceed and be performed in such cases, and such cases only, as this constitution, or the laws made in pursuance thereof, confer jurisdiction and authority over the causes of actions on which said cases, judgments, decrees, or proceedings, civil or criminal, are founded: *Provided,* That all said judgments, decrees, and proceedings shall be subject to be set aside, or reversed, or vacated, by proceedings in the several courts having custody of the records, as though they were the judgments of said courts, and shall be subject always to be explained as to the meaning of the word dollar or dollars, as used in the same, and no motion for a new trial, bill of review, or other proceeding, to vacate any judgment, order, or decree,

made since the 19th of January, 1861, by any of said courts, for fraud, illegality, or error of law, shall be denied, by reason of the same not having been moved in time; provided said motion or application is made in twelve months from the adoption of this constitution.

Seven. The books, papers, and proceedings of the inferior courts shall be transferred to, and remain in, the control of the ordinaries, who shall perform the duties of said courts until otherwise provided by law. The books, papers, and proceedings of the county courts, and the unfinished business thereof, shall be transferred to the superior courts, and the same shall be finished and performed by the said superior courts and the officers thereof, in such cases, and in such cases only, as the said courts are, by this constitution or the laws made in pursuance thereof, granted jurisdiction over the subject-matter or debts on which said cases and judgments, civil or criminal, are founded.

Eight. The cases pending and the judgments had and made in the city courts of Savannah and Augusta, and in the various justices' courts in this State, shall be finished and the judgments performed by the city courts, and officers and justices provided by this constitution in such cases, and such only, as by this constitution jurisdiction is given to said courts and officers over the causes of action on which they are founded.

Nine. The judgments and proceedings of courts, and acts of officers within their jurisdiction, as provided by law, shall be valid notwithstanding the judges of said courts or the said officers were appointed by the military authorities of the United States, and any of said judgments, or acts, or proceedings made or done under or by virtue of, or in accordance with, the orders of said military authorities, duly made, are as valid as if done under a law of this State.

Ten. These several acts of confirmation shall not be construed to divest any vested right, nor to make any act criminal otherwise not criminal, but they shall be construed as acts of peace and to prevent injustice: *Provided*, That nothing in this constitution shall be so construed as to make valid any acts done by, or before any such *de facto* officer, which would, by legalizing such acts, render that criminal which was not criminal when done, or cause any act not legally criminal when done to become criminal by giving validity to such act after it was done; but all such acts shall be held by the courts to be null and void.

Eleven. Should this constitution be ratified by the people, and Congress accept the same with any qualifications or conditions, the government herein provided for, and the officers elected shall nevertheless exist and continue in the exercise of their several functions, as the government of this State, so far as the same may be consistent with the action of the United States in the premises.

Twelve. The ordinances of this convention on the subject of the first election, and the first general assembly, shall have the force of laws, until they expire by their own limitation, and all other ordinances of a mere legislative character shall have the force of laws, until otherwise provided by the general assembly.

ARTICLE XII.

AMENDMENTS TO THE CONSTITUTION.

One. This constitution may be amended by a two-thirds vote of two successive legislatures, and by a submission of the amendment to the qualified voters for final ratification. But the general assembly shall not call a convention of the people in the election of delegates to which any person qualified to vote by this constitution shall be disqualified. And the representation in said convention shall be based on population. Nor shall the right of suffrage ever be taken from any person qualified by this constitution to vote.

JOSIAH R. PARROTT, *President.*

P. M. SHEIBLEY, *Secretary.*

ILLINOIS.

VIRGINIA ACT OF CESSION—1783.*

SECTION 1. Whereas the Congress of the United States did, by their act of the 6th day of September, in the year 1780, recommend to the several States in the Union, having claims to waste and unappropriated lands in the western country, a liberal cession to the United States of a portion of their respective claims for the common benefit of the Union:

SEC. 2. And whereas this commonwealth did, on the 2d day of January, in the year 1781, yield to the Congress of the United States, for the benefit of the said States, all right, title, and claim which the said commonwealth had to the territory northwest of the river Ohio, subject to the conditions annexed to the said act of cession:

SEC. 3. And whereas the United States in Congress assembled have, by their act of the 13th of September last, stipulated the terms on which they agree to accept the cession of this State, should the legislature approve thereof, which terms, although they do not come fully up to the propositions of this commonwealth, are conceived, on the whole, to approach so nearly to them as to induce this State to accept thereof, in full confidence that Congress will, in justice to this State for the liberal cession she hath made, earnestly press upon the other States claiming large tracts of waste and uncultivated territory the propriety of making cessions equally liberal for the common benefit and support of the Union:

Be it enacted by the general assembly, That it shall and may be lawful for the delegates of this State to the Congress of the United States, or such of them as shall be assembled in Congress, and the said delegates, or such of them so assembled, are hereby fully authorized and empowered, for and on behalf of this State, by proper deeds or instrument in writing, under their hands and seals, to convey, transfer, assign, and make over unto the United States, in Congress assembled, for the benefit of the said States, all right, title, and claim, as well of soil as jurisdiction, which this commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying, and being to the northwest of the river Ohio, subject to the terms and conditions contained in the before-recited act of Congress of the 13th day of September last, that is to say: Upon condition that the territory so ceded shall be laid out and formed into States, containing a suitable extent of territory, not less than one hundred nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit; and that the States so formed shall be distinct republican States, and admitted members of the Federal Union, having the same rights of sovereignty, freedom, and independence as the other States; that the necessary and reasonable expenses incurred by this State in subduing any British posts, or in maintaining forts or garrisons within and for the defence, or in acquiring any part of the territory so ceded or relinquished, shall be fully reimbursed by the United States; and that one commissioner shall be appointed by Congress, one by this commonwealth, and another by those two commissioners, who, or a majority of them, shall be authorized and empowered to adjust and liquidate the account of the necessary and reasonable expenses incurred by this State, which they shall judge to be comprised within the intent and meaning of the act of Congress of the 10th of October, 1780, respecting such expenses. That the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents, and the neighboring villages, who have professed them-

* This act was passed on December 20, 1783, by the legislature of Virginia, to authorize the delegates of that State in Congress to convey to the United States all the rights of that commonwealth to the territory northwest of the river Ohio.

selves citizens of Virginia, shall have their possessions and titles confirmed to them, and be protected in the enjoyment of their rights and liberties. That a quantity, not exceeding one hundred and fifty thousand acres, of land, promised by this State, shall be allowed and granted to the then Colonel, now General, George Rogers Clarke, and to the officers and soldiers of his regiment who marched with him when the posts of Kaskaskies and Saint Vincents were reduced, and to the officers and soldiers that have been since incorporated into the said regiment, to be laid off in one tract, the length of which not to exceed double the breadth, in such place on the northwest side of the Ohio as a majority of the officers shall choose, and to be afterwards divided among the said officers and soldiers in due proportion according to the laws of Virginia. That in case the quantity of good lands on the southeast side of the Ohio, upon the waters of Cumberland River, and between the Green River and Tennessee River, which have been reserved by law for the Virginia troops upon continental establishment, should, from the North Carolina line bearing in further upon the Cumberland lands than was expected, prove insufficient for their legal bounties, the deficiency should be made up to the said troops in good lands, to be laid off between the rivers Scioto and Little Miami, on the northwest side of the river Ohio, in such proportions as have been engaged to them by the laws of Virginia. That all the lands within the territory so ceded to the United States, and not reserved for or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American Army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become members of the confederation or federal alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever: *Provided*, That the trust hereby reposed in the delegates of this State shall not be executed unless three of them, at least, are present in Congress.

DEED OF CESSION FROM VIRGINIA—1784.

To all who shall see these presents, we, Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, the underwritten delegates for the commonwealth of Virginia in the Congress of the United States of America, send greeting:

Whereas the general assembly of the commonwealth of Virginia, at their sessions begun on the 20th day of October, 1783, passed an act, entitled "An act to authorize the delegates of this State in Congress to convey to the United States in Congress assembled all the right of this commonwealth to the territory northwestward of the river Ohio, in these words following, to wit," [here follows the act of cession:]

And whereas the said general assembly, by their resolution of June 6, 1783, had constituted and appointed us, the said Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, delegates to represent the said commonwealth in Congress, for one year from the first Monday in November then next following, which resolution remains in full force: Now, therefore, know ye, that we, the said Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, by virtue of the power and authority committed to us by the act of the said general assembly of Virginia before recited, and in the name, and for and on behalf of, the said commonwealth, do, by these presents, convey, transfer, assign, and make over unto the United States in Congress assembled, for the benefit of the said States, Virginia inclusive, all right, title, and claim, as well of soil as of jurisdiction, which the said commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying, and being to the northwest of the river Ohio, to and for the uses and purposes and on the conditions of the said recited act. In testimony whereof we have hereunto subscribed our names and affixed our seals, in Congress, the 1st day of March, in the year of our Lord 1784, and of the Independence of the United States the eighth.

THE NORTHWEST TERRITORIAL GOVERNMENT—1787.

[THE CONFEDERATE CONGRESS, JULY 13, 1787.]

An Ordinance for the government of the territory of the United States northwest of the river Ohio.

SECTION 1. *Be it ordained by the United States in Congress assembled,* That the said territory, for the purpose of temporary government, be one district, subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

SEC. 2. *Be it ordained by the authority aforesaid,* That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among, their children and the descendants of a deceased child in equal parts, the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have, in equal parts among them, their deceased parent's share; and there shall, in no case, be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one-third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be, (being of full age,) and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers, shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

SEC. 3. *Be it ordained by the authority aforesaid,* That there shall be appointed, from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

SEC. 4. There shall be appointed from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department, and transmit authentic copies of such acts and proceedings every six months to the Secretary of Congress. There shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common-law jurisdiction, and reside in the district, and have each therein a freehold estate, in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behavior.

SEC. 5. The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress from time to time, which laws shall be in force in the district until the organization of the

general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

SEC. 6. The governor, for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

SEC. 7. Previous to the organization of the general assembly the governor shall appoint such magistrates, and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the general assembly shall be organized the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

SEC. 8. For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed, from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

SEC. 9. So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly: *Provided*, That for every five hundred free male inhabitants there shall be one representative, and so on, progressively, with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the legislature: *Provided*, That no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and, in either case, shall likewise hold in his own right, in fee-simple, two hundred acres of land within the same: *Provided also*, That a freehold in fifty acres of land in the district, having been a citizen of one of the States, and being resident in the district, or the like freehold and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative.

SEC. 10. The representatives thus elected shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township, for which he was a member, to elect another in his stead, to serve for the residue of the term.

SEC. 11. The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress; any three of whom to be a quorum; and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected the governor shall appoint a time and place for them to meet together, and when met they shall nominate ten persons, resident in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress, five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress, one of whom Congress shall appoint and commission for the residue of the term; and every five years, four months at least before the expiration of the time of service of the members of the council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress, five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives shall have authority to make laws in all cases for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the house, and by a majority in the

council, shall be referred to the governor for his assent; but no bill, or legislative act, whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve the general assembly when, in his opinion, it shall be expedient.

SEC. 12. The governor, judges, legislative council, secretary, and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office; the governor before the President of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled, in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting, during this temporary government.

SEC. 13. And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions, are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory; to provide, also, for the establishment of States, and permanent government therein, and for their admission to a share in the Federal councils on an equal footing with the original States, at as early periods as may be consistent with the general interest:

SEC. 14. It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent, to wit:

ARTICLE I.

No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship, or religious sentiments, in the said territory.

ARTICLE II.

The inhabitants of the said territory shall always be entitled to the benefits of the writs of *habeas corpus*, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land, and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made or have force in the said territory, that shall, in any manner whatever, interfere with or affect private contracts, or engagements, *bona fide*, and without fraud previously formed.

ARTICLE III.

Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

ARTICLE IV.

The said territory, and the States which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made;

and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the Federal debts, contracted, or to be contracted, and a proportional part of the expenses of government to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district, or districts, or new States, as in the original States, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts, or new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona-fide* purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and Saint Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory as to the citizens of the United States, and those of any other States that may be admitted into the confederacy, without any tax, impost, or duty therefor.

ARTICLE V.

There shall be formed in the said territory not less than three nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession and consent to the same, shall become fixed and established as follows, to wit: The western State, in the said territory, shall be bounded by the Mississippi, the Ohio, and the Wabash Rivers; a direct line drawn from the Wabash and Post Vincents, due north, to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle State shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern State shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: *Provided, however,* And it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever; and shall be at liberty to form a permanent constitution and State government: *Provided,* The constitution and government, so to be formed, shall be republican, and in conformity to the principles contained in these articles, and, so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

ARTICLE VI.

There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: *Provided always,* That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

Be it ordained by the authority aforesaid, That the resolutions of the 23d of April, 1784, relative to the subject of this ordinance, be, and the same are hereby, repealed, and declared null and void.

Done by the United States, in Congress assembled, the 13th day of July, in the year of our Lord 1787, and of their sovereignty and independence the twelfth.

VIRGINIA ACT OF RATIFICATION—1788.*

Whereas the United States in Congress assembled did, on the 7th day of July, in the year of our Lord 1786, state certain reasons, showing that a division of the territory which hath been ceded to the said United States by this commonwealth into States, in conformity to the terms of cession, should the same be adhered to, would be attended with many inconveniences, and did recommend a revision of the act of cession, so far as to empower Congress to make such a division of the said territory into distinct and republican States, not more than five nor less than three in number, as the situation of that country and future circumstances might require; and the said United States in Congress assembled have, in an ordinance for the government of the territory northwest of the river Ohio, passed on the 13th of July, 1787, declared the following as one of the articles of compact between the original States and the people and States in the said territory, viz, [here article 5 of the ordinance of 1787 is recited;]

And it is expedient that this Commonwealth do assent to the proposed alteration, so as to ratify and confirm the said article of compact between the original States and the people and States in the said territory:

Be it therefore enacted by the general assembly, That the afore-recited article of compact between the original States and the people and States in the territory northwest of Ohio river be, and the same is hereby, ratified and confirmed, anything to the contrary in the deed of cession of the said territory by this commonwealth to the United States notwithstanding.

THE NORTHWEST TERRITORIAL GOVERNMENT—1789.

[FIRST CONGRESS, FIRST SESSION.]

An Act to provide for the government of the territory northwest of the river Ohio.

Whereas, in order that the ordinance of the United States in Congress assembled, for the government of the territory northwest of the river Ohio, may continue to have full effect, it is requisite that certain provisions should be made, so as to adapt the same to the present Constitution of the United States:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which, by the said ordinance, any information is to be given or communication made by the governor of the said territory to the United States in Congress assembled, or to any of their officers, it shall be the duty of the said governor to give such information and to make such communication to the President of the United States; and the President shall nominate, and, by and with the advice and consent of the Senate shall appoint, all officers which, by the said ordinance, were to have been appointed by the United States in Congress assembled, and all officers so appointed shall be commissioned by him; and in all cases where the United States in Congress assembled might, by the said ordinance, revoke any commission, or remove from any office, the President is hereby declared to have the same powers of revocation and removal.

SEC. 2. *And be it further enacted*, That in case of the death, removal, resignation, or necessary absence of the governor of the said territory, the secretary thereof shall be, and he is hereby, authorized and required to execute all the powers and perform all the duties of the governor during the vacancy occasioned by the removal, resignation, or necessary absence of the said governor.

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* The act of Virginia of December 18, 1789, concerning the erection of Kentucky into an independent State, contained the following proviso:

"SEC. 7. The use and navigation of the river Ohio, so far as the territory of the proposed State, or the territory which shall remain within the limits of this commonwealth, lies therein, shall be free and common to the citizens of the United States; and the respective jurisdictions of this commonwealth and of the proposed State, on the river as aforesaid, shall be concurrent only with the States which may possess the opposite shores of the said river."



THE NORTHWEST TERRITORIAL GOVERNMENT—1800.

[SIXTH CONGRESS, FIRST SESSION.]

An Act to divide the territory of the United States northwest of the Ohio into two separate governments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the fourth day of July next, all that part of the territory of the United States northwest of the Ohio River which lies to the westward of a line beginning at the Ohio, opposite to the mouth of Kentucky River, and running thence to Fort Recovery, and thence north until it shall intersect the territorial line between the United States and Canada, shall, for the purposes of temporary government, constitute a separate territory, and be called the Indiana Territory.

SEC. 2. *And be it further enacted,* That there shall be established within the said Territory a government in all respects similar to that provided by the ordinance of Congress passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the territory of the United States northwest of the river Ohio; and the inhabitants thereof shall be entitled to, and enjoy, all and singular the rights, privileges, and advantages granted and secured to the people by the said ordinance.

SEC. 3. *And be it further enacted,* That the officers for the said Territory, who by virtue of this act shall be appointed by the President of the United States, by and with the advice and consent of the Senate, shall respectively exercise the same powers, perform the same duties, and receive for their services the same compensations as by the ordinance aforesaid and the laws of the United States have been provided and established for similar officers in the territory of the United States northwest of the river Ohio. And the duties and emoluments of superintendent of Indian affairs shall be united with those of governor: *Provided,* That the President of the United States shall have full power, in the recess of Congress, to appoint and commission all officers herein authorized; and their commissions shall continue in force until the end of the next session of Congress.

SEC. 4. *And be it further enacted,* That so much of the ordinance for the government of the territory of the United States northwest of the Ohio River as relates to the organization of a general assembly therein, and prescribes the powers thereof, shall be in force and operate in the Indiana Territory, whenever satisfactory evidence shall be given to the governor thereof that such is the wish of a majority of the freeholders, notwithstanding there may not be therein five thousand free male inhabitants of the age of twenty-one years and upwards: *Provided,* That until there shall be five thousand free male inhabitants of twenty-one years and upwards in said Territory, the whole number of representatives to the general assembly shall not be less than seven nor more than nine, to be apportioned by the governor to the several counties in said Territory agreeably to the number of free males of the age of twenty-one years and upwards which they may respectively contain.

SEC. 5. *And be it further enacted,* That nothing in this act contained shall be construed so as in any manner to affect the government now in force in the territory of the United States northwest of the Ohio River, further than to prohibit the exercise thereof within the Indiana Territory, from and after the aforesaid fourth day of July next: *Provided,* That whenever that part of the territory of the United States which lies to the eastward of a line beginning at the mouth of the Great Miami River, and running thence due north to the territorial line between the United States and Canada, shall be erected into an independent State and admitted into the Union on an equal footing with the original States, thenceforth said line shall become and remain per-

manently the boundary-line between such State and the Indiana Territory; anything in this act contained to the contrary notwithstanding.

SEC. 6. *And be it further enacted*, That until it shall be otherwise ordered by the legislatures of the said territories respectively, Chillicothe, on Scioto River, shall be the seat of the government of the territory of the United States northwest of the Ohio River; and that Saint Vincennes, on the Wabash River, shall be the seat of the government for the Indiana Territory.

APPROVED, May 7, 1800.

THE TERRITORIAL GOVERNMENT OF ILLINOIS—1809.

[TENTH CONGRESS, SECOND SESSION.]

An Act for dividing the Indiana Territory into two separate governments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of March next, all that part of the Indiana Territory which lies west of the Wabash River, and a direct line drawn from the said Wabash River and Post Vincennes due north to the territorial line between the United States and Canada, shall, for the purpose of temporary government, constitute a separate Territory, and be called Illinois.

SEC. 2. *And be it further enacted*, That there shall be established within the said Territory a government in all respects similar to that provided by the ordinance of Congress, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the territory of the United States northwest of the river Ohio; and by an act passed on the seventh day of August, one thousand seven hundred and eighty-nine, entitled "An act to provide for the government of the territory northwest of the river Ohio;" and the inhabitants thereof shall be entitled to and enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the territory of the United States northwest of the river Ohio by the said ordinance.

SEC. 3. *And be it further enacted*, That the officers for the said Territory, who, by virtue of this act, shall be appointed by the President of the United States, by and with the advice and consent of the Senate, shall respectively exercise the same powers, perform the same duties, and receive for their services the same compensations as by the ordinance aforesaid and the laws of the United States have been provided and established for similar officers in the Indiana Territory. And the duties and emoluments of superintendent of Indian affairs shall be united with those of governor: *Provided*, That the President of the United States shall have full power, in the recess of Congress, to appoint and commission all officers herein authorized, and their commissions shall continue in force until the end of the next session of Congress.

SEC. 4. *And be it further enacted*, That so much of the ordinance for the government of the territory of the United States northwest of the Ohio River, as relates to the organization of a general assembly therein, and prescribes the powers thereof, shall be in force and operate in the Illinois Territory, whenever satisfactory evidence shall be given to the governor thereof that such is the wish of a majority of the freeholders, notwithstanding there may not be therein five thousand free male inhabitants of the age of twenty-one years and upwards: *Provided*, That until there shall be five thousand free male inhabitants of twenty-one years and upwards in said Territory, the whole number of representatives to the general assembly shall not be less than seven, nor more than nine, to be apportioned by the governor to the several counties in the said Territory, agreeably to the number of free males of the age of twenty-one years and upwards, which they may respectively contain.

SEC. 5. *And be it further enacted*, That nothing in this act contained shall be construed so as in any manner to affect the government now in force in the Indiana Territory, further than to prohibit the exercise thereof within the Illinois Territory from and after the aforesaid first day of March next.

SEC. 6. *And be it further enacted*, That all suits, process, and proceedings which, on the first day of March next, shall be pending in the court of any county which shall be included within the said Territory of Illinois, and also all suits, process, and proceedings which, on the said first day of March next, shall be pending in the general court of the Indiana Territory, in consequence of any writ of removal, or order for trial at bar, and which had been removed from any of the counties included within the limits of the Territory of Illinois aforesaid, shall, in all things concerning the same, be proceeded on, and judgments and decrees rendered thereon, in the same manner as if the said Indiana Territory had remained undivided.

SEC. 7. *And be it further enacted*, That nothing in this act contained shall be so construed as to prevent the collection of taxes which may on the first day of March next be due to the Indiana Territory on lands lying in the said Territory of Illinois.

SEC. 8. *And be it further enacted*, That until it shall be otherwise ordered by the legislature of the said Illinois Territory, Kaskaskia, on the Mississippi River, shall be the seat of government for the said Illinois Territory.

APPROVED, February 3, 1809.

ENABLING ACT FOR ILLINOIS—1818.

[FIFTEENTH CONGRESS, FIRST SESSION.]

An Act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the Territory of Illinois be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they shall deem proper; and the said State, when formed, shall be admitted into the Union upon the same footing with the original States, in all respects whatever.

SEC. 2. *And be it further enacted*, That the said State shall consist of all the territory included within the following boundaries, to wit: Beginning at the mouth of the Wabash River, thence up the same, and with the line of Indiana, to the northwest corner of said State; thence east, with the line of the same State, to the middle of Lake Michigan; thence north, along the middle of said lake, to north latitude forty-two degrees thirty minutes; thence west to the middle of the Mississippi River; and thence down, along the middle of that river, to the confluence with the Ohio River; and thence up the latter river, along its northwestern shore, to the beginning: *Provided*, That the convention hereinafter provided for, when formed, shall ratify the boundaries aforesaid; otherwise they shall be and remain as now prescribed by the ordinance for the government of the territory northwest of the river Ohio: *Provided also*, That the said State shall have concurrent jurisdiction with the State of Indiana on the Wabash River, so far as said river shall form a common boundary to both, and also concurrent jurisdiction on the Mississippi River, with any State or States to be formed west thereof, so far as said river shall form a common boundary to both.

SEC. 3. *And be it further enacted*, That all white male citizens of the United States, who shall have arrived at the age of twenty-one years, and have resided in said Territory six months previous to the day of election, and all persons having in other respects the legal qualifications to vote for representatives in the general assembly of the said Territory, be, and they are hereby, authorized to choose representatives

to form a convention, who shall be apportioned amongst the several counties as follows:

From the county of Bond, two representatives.
From the county of Madison, three representatives.
From the county of Saint Clair, three representatives.
From the county of Monroe, two representatives.
From the county of Randolph, two representatives.
From the county of Jackson, two representatives.
From the county of Johnson, two representatives.
From the county of Pope, two representatives.
From the county of Gallatin, three representatives.
From the county of White, two representatives.
From the county of Edwards, two representatives.
From the county of Crawford, two representatives.
From the county of Union, two representatives.
From the county of Washington, two representatives.
And from the county of Franklin, two representatives.

And the election for the representatives aforesaid shall be holden on the first Monday of July next, and the two following days, throughout the several counties in the said Territory, and shall be conducted in the same manner and under the same regulations as prescribed by the laws of the said Territory regulating elections therein for members of the house of representatives.

SEC. 4. *And be it further enacted*, That the members of the convention, thus duly elected, be, and they are hereby, authorized to meet at the seat of government of the said Territory, on the first Monday of the month of August next, which convention, when met, shall first determine, by a majority of the whole number elected, whether it be or be not expedient at that time to form a constitution and State government for the people within the said Territory, and, if it be expedient, the convention shall be, and hereby is, authorized to form a constitution and State government; or, if it be deemed more expedient, the said convention shall provide by ordinance for electing representatives to form a constitution or frame of government; which said representatives shall be chosen in such manner, and in such proportion, and shall meet at such time and place, as shall be prescribed by the said ordinance, and shall then form for the people of said Territory a constitution and State government: *Provided*, That the same, whenever formed, shall be republican, and not repugnant to the ordinance of the thirteenth of July, seventeen hundred and eighty-seven, between the original States and the people and States of the territory northwest of the river Ohio; excepting so much of said articles as relate to the boundaries of the States therein to be formed: *And provided also*, That it shall appear, from the enumeration directed to be made by the legislature of the said Territory, that there are within the proposed State not less than forty thousand inhabitants.

SEC. 5. *And be it further enacted*, That until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 6. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the said Territory of Illinois, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States and the said State:

First. That section numbered sixteen, in every township, and when such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State, for the use of the inhabitants of such township, for the use of schools.

Second. That all salt springs within such State, and the land reserved for the use of the same, shall be granted to the said State, for the use of the said State, and the same to be used under such terms, and conditions, and regulations as the legislature of the said State shall direct: *Provided*, The legislature shall never sell nor lease the same for a longer period than ten years at any one time.

Third. That five per cent. of the net proceeds of the lands lying within such State,

and which shall be sold by Congress, from and after the first day of January, one thousand eight hundred and nineteen, after deducting all expenses incident to the same, shall be reserved for the purposes following, viz: two-fifths to be disbursed, under the direction of Congress, in making roads leading to the State; the residue to be appropriated, by the legislature of the State, for the encouragement of learning, of which one-sixth part shall be exclusively bestowed on a college or university.

Fourth. That thirty six sections, or one entire township, which shall be designated by the President of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of the said State, to be appropriated solely to the use of such seminary by the said legislature: *Provided always*, That the four foregoing propositions, herein offered, are on the conditions that the convention of the said State shall provide, by an ordinance irrevocable without the consent of the United States, that every and each tract of land sold by the United States, from and after the first day of January, one thousand eight hundred and nineteen, shall remain exempt from any tax laid by order, or under any authority, of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale: *And further*, That the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees, or their heirs, remain exempt, as aforesaid, from all taxes, for the term of three years, from and after the date of the patents respectively; and that all the lands belonging to the citizens of the United States, residing without the said State, shall never be taxed higher than lands belonging to persons residing therein.

SEC. 7. *And be it further enacted*, That all that part of the territory of the United States lying north of the State of Indiana, and which was included in the former Indiana Territory, together with that part of the Illinois Territory which is situated north of and not included within the boundaries prescribed by this act to the State thereby authorized to be formed, shall be, and hereby is, attached to and made a part of the Michigan Territory, from and after the formation of the said State, subject, nevertheless, to be hereafter disposed of by Congress, according to the right reserved in the fifth article of the ordinance aforesaid; and the inhabitants therein shall be entitled to the same privileges and immunities, and subject to the same rules and regulations, in all respects, with the other citizens of the Michigan Territory.

APPROVED, April 18, 1818.

ORDINANCE ACCEPTING THE ENABLING ACT—1818.*

Whereas the Congress of the United States, in the act entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," passed the 18th of April, 1818, have offered to this convention, for their free acceptance or rejection, the following propositions, which, if accepted by the convention, are to be obligatory upon the United States, viz:

1. That section numbered 16 in every township, and, when such section has been sold or otherwise disposed of, other lands equivalent thereto and as contiguous as may be, shall be granted to the State for the use of the inhabitants of such township for the use of schools;

2. That all salt springs within such State, and the lands reserved for the use of the same, shall be granted to the said State for the use of the said State, and the same to be used under such terms and conditions and regulations as the legislature of said State shall direct: *Provided*, The legislature shall never sell nor lease the same for a longer period than ten years at any one time;

3. That five per cent. of the net proceeds of the lands lying within such State, and

* Adopted at Kaskaskia, 26th August, 1818, by the convention which framed the first constitution of Illinois.

which shall be sold by Congress from and after the 1st day of January, 1819, after deducting all expenses incident to the same, shall be reserved for the purposes following, viz: Two-fifths to be disbursed under the direction of Congress, in making roads leading to the State; the residue to be appropriated by the legislature of the State for the encouragement of learning, of which one-sixth part shall be exclusively bestowed on a college or university;

4. That thirty-six sections, or one entire township, which shall be designated by the President of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of the said State, to be appropriated solely to the use of such seminary by the said legislature;

And whereas the four foregoing propositions are offered on the condition that this convention shall provide by ordinance, irrevocably, without the consent of the United States, that every and each tract of land sold by the United States, from and after the 1st day of January, 1819, shall remain exempt from any tax laid by order or under the authority of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale. [See chapter 89, section 36, and note.] And further, that the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt as aforesaid from all taxes for the term of three years from and after the date of the patents respectively; and that all the lands belonging to the citizens of the United States residing without the said State shall never be taxed higher than lands belonging to persons residing therein:

Therefore, this convention, on behalf of and by the authority of the people of the State, do accept of the foregoing propositions; and do further ordain and declare that every and each tract of land sold by the United States, from and after the 1st day of January, 1819, shall remain exempt from any tax laid by order or under any authority of the State, whether for State, county, or township, or any purpose whatever, for the term of five years from and after the day of sale; and that the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt, as aforesaid, from all taxes for the term of three years from and after the date of the patents respectively; and that all the lands belonging to the citizens of the United States, residing without the said State, shall never be taxed higher than lands belonging to persons residing therein. And this convention do further ordain and declare that the foregoing ordinance shall not be revoked without the consent of the United States.

CONSTITUTION OF ILLINOIS—1818.

The people of the Illinois Territory, having the right of admission into the General Government as a member of the Union, consistent with the Constitution of the United States, the ordinance of Congress of 1787, and the law of Congress approved April 18, 1818, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes," in order to establish justice, promote the welfare, and secure the blessings of liberty to themselves and their posterity, do, by their representatives in convention, ordain and establish the following constitution or form of government; and do mutually agree with each other to form themselves into a free and independent State, by the name of the State of Illinois. And they do hereby ratify the boundaries assigned to such State by the act of Congress aforesaid, which are as follows, to wit: Beginning at the mouth of the Wabash River; thence up the same and with the line of Indiana to the northwest corner of said State; thence east with the line of the same State to the middle of Lake Michigan; thence north, along the middle of said lake, to north latitude forty-two degrees and thirty minutes; thence west to the middle of the Mississippi River; and thence down along the middle of that river to its confluence with the Ohio River; and thence up the latter river, along its northwestern shore, to the beginning.

ARTICLE I.

SECTION 1. The powers of the government of the State of Illinois shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judiciary, to another.

SEC. 2. No person or collection of persons being one of those departments shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

ARTICLE II.

SECTION 1. The legislative authority of this State shall be vested in a general assembly, which shall consist in a senate and house of representatives, both to be elected by the people.

SEC. 2. The first election for senators and representatives shall commence on the third Thursday of September next, and continue for that and the two succeeding days; and the next election shall be held on the first Monday in August, 1820; and forever after elections shall be held once in two years, on the first Monday of August, in each and every county, at such places therein as may be provided by law.

SEC. 3. No person shall be a representative who shall not have attained the age of twenty-one years; who shall not be a citizen of the United States, and an inhabitant of this State; who shall not have resided within the limits of the county or district in which he shall be chosen twelve months next preceding his election, if such county or district shall have been so long erected; but if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken, unless he shall have been absent on the public business of the United States or of this State, and who, moreover, shall not have paid a State or county tax.

SEC. 4. The senators, at their first session herein provided for, shall be divided by lot from their respective counties or districts, as near as can be, into two classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, and those of the second class at the expiration of the fourth year, so that one-half thereof, as near as possible, may be biennially chosen forever thereafter.

SEC. 5. The number of senators and representatives shall, at the first session of the general assembly holden after the returns herein provided for are made, be fixed by the general assembly, and apportioned among the several counties or districts to be established by law, according to the number of white inhabitants. The number of representatives shall not be less than twenty-seven, nor more than thirty-six, until the number of inhabitants within this State shall amount to one hundred thousand; and the number of senators shall never be less than one-third nor more than one-half of the number of representatives.

SEC. 6. No person shall be a senator who has not arrived at the age of twenty-five years, who shall not be a citizen of the United States, and who shall not have resided one year in the county or district in which he shall be chosen immediately preceding his election, if such county or district shall have been so long erected; but if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken, unless he shall have been absent on the public business of the United States or of this State, and shall not, moreover, have paid a State or county tax.

SEC. 7. The senate and house of representatives, when assembled, shall each choose a speaker and other officers, (the speaker of the senate excepted.) Each house shall judge of the qualifications and elections of its members, and sit upon its own adjournments. Two-thirds of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and compel the attendance of absent members.

SEC. 8. Each house shall keep a journal of its proceedings and publish them. The yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journals.

SEC. 9. Any two members of either house shall have liberty to dissent and protest against any act or resolution which they may think injurious to the public, or to any individual, and have the reasons of their dissent entered on the journals.

SEC. 10. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause.

SEC. 11. When vacancies happen in either house, the governor, or the person exercising the powers of governor, shall issue writs of election to fill such vacancies.

SEC. 12. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to or returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 13. Each house may punish, by imprisonment during its session, any person not a member who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence; provided such imprisonment shall not at any one time exceed twenty-four hours.

SEC. 14. The doors of each house and of committees of the whole shall be kept open, except in such cases as in the opinion of the house require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting.

SEC. 15. Bills may originate in either house, but may be altered, amended, or rejected by the other.

SEC. 16. Every bill shall be read on three different days in each house, unless, in case of urgency, three-fourths of the house where such bill is so depending shall deem it expedient to dispense with this rule; and every bill having passed both houses shall be signed by the speakers of the respective houses.

SEC. 17. The style of the laws of this State shall be, "*Be it enacted by the people of the State of Illinois, represented in the general assembly.*"

SEC. 18. The general assembly of this State shall not allow the following officers of government greater or smaller annual salaries than as follows, until the year 1824: The governor, $1,000; and the secretary of state, $600.

SEC. 19. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall have been increased, during such time.

SEC. 20. No money shall be drawn from the treasury but in consequence of appropriations made by law.

SEC. 21. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws, at the rising of each session of the general assembly.

SEC. 22. The house of representatives shall have the sole power of impeaching, but a majority of all the members present must concur in an impeachment. All impeachments shall be tried by the senate, and when sitting for that purpose the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of all the senators present.

SEC. 23. The governor, and all other civil officers under this State, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

SEC. 24. The first session of the general assembly shall commence on the first Monday of October next, and forever after the general assembly shall meet on the first Monday in December next ensuing the election of the members thereof, and at no other period, unless as provided by this constitution.

SEC. 25. No judge of any court of law or equity, secretary of state, attorney-general, attorney for the State, register, clerk of any court of record, sheriff, or collector, member of either house of Congress, or person holding any lucrative office under the United States or this State, (provided that appointments in the militia, postmasters, or justices of the peace shall not be considered lucrative offices,) shall have a seat in the general assembly; nor shall any person holding any office of honor or profit under the Gov-



ernment of the United States hold any office of honor or profit under the authority of this State.

SEC. 26. Every person who shall be chosen or appointed to any office of trust or profit shall, before entering upon the duties thereof, take an oath to support the Constitution of the United States and of this State, and also an oath of office.

SEC. 27. In all elections, all white male inhabitants above the age of twenty-one years, having resided in the State six months next preceding the election, shall enjoy the right of an elector; but no person shall be entitled to vote except in the county or district in which he shall actually reside at the time of the election.

SEC. 28. All votes shall be given *viva voce* until altered by the general assembly.

SEC. 29. Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

SEC. 30. The general assembly shall have full power to exclude from the privilege of electing or being elected any person convicted of bribery, perjury, or any other infamous crime.

SEC. 31. In the year 1820, and every fifth year thereafter, an enumeration of all the white inhabitants of the State shall be made in such manner as shall be directed by law.

SEC. 32. All bills for raising a revenue shall originate in the house of representatives, subject, however, to amendment or rejection as in other cases.

ARTICLE III.

SECTION 1. The executive power of the State shall be vested in a governor.

SEC. 2. The first election of governor shall commence on the third Thursday of September next, and continue for that and the two succeeding days; and the next election shall be held on the first Monday of August, in the year of our Lord 1822. And forever after, elections for governor shall be held once in four years, on the first Monday in August. The governor shall be chosen by the electors of the members of the general assembly, at the same places and in the same manner that they shall respectively vote for members thereof. The returns for every election of governor shall be sealed up and transmitted to the seat of government by the returning officers, directed to the speaker of the house of representatives, who shall open and publish them in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be governor; but if two or more be equal and highest in votes, then one of them shall be chosen governor by joint ballot of both houses of the general assembly. Contested elections shall be determined by both houses of the general assembly in such manner as shall be prescribed by law.

SEC. 3. The first governor shall hold his office until the first Monday of December, in the year of our Lord 1822, and until another governor shall be elected and qualified to office; and forever after the governor shall hold his office for the term of four years and until another governor shall be elected and qualified; but he shall not be eligible for more than four years in any term of eight years. He shall be at least thirty years of age, and have been a citizen of the United States thirty years; two years of which next preceding his election he shall have resided within the limits of this State.

SEC. 4. He shall, from time to time, give the general assembly information of the state of the government, and recommend to their consideration such measures as he shall deem expedient.

SEC. 5. He shall have power to grant reprieves and pardons after conviction, except in cases of impeachment.

SEC. 6. The governor shall, at stated times, receive a salary for his services, which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 7. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

SEC. 8. When any officer, the right of whose appointment is, by this constitution, vested in the general assembly, or in the governor and senate, shall, during the recess, die, or his office by any means become vacant, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the general assembly.

SEC. 9. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to them, when assembled, the purpose for which they shall have been convened.

SEC. 10. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 11. There shall be elected in each and every county in the said State, by those who are qualified to vote for members of the general assembly, and at the same time and places where the election for such members shall be held, one sheriff and one coroner, whose election shall be subject to such rules and regulations as shall be prescribed by law. The said sheriffs and coroners respectively, when elected, shall continue in office two years, be subject to removal and disqualification, and such other rules and regulations as may be from time to time prescribed by law.

SEC. 12. In case of disagreement between two houses with respect to the time of adjournment, the governor shall have power to adjourn the general assembly to such time as he thinks proper, provided it be not a period beyond the next constitutional meeting of the same.

SEC. 13. A lieutenant-governor shall be chosen at every election for governor in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant-governor, the electors shall distinguish whom they vote for as governor and whom as lieutenant-governor.

SEC. 14. He shall, by virtue of his office, be speaker of the senate, have a right, when in committee of the whole, to debate and vote on all subjects, and whenever the senate are equally divided, to give the casting vote.

SEC. 15. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as speaker of the senate, the senators shall elect one of their own members as speaker for that occasion; and if, during the vacancy of the office of governor, the lieutenant-governor shall be impeached, removed from office, refuse to qualify, or resign, or die, or be absent from the State, the speaker of the senate shall in like manner administer the government.

SEC. 16. The lieutenant-governor, while he acts as speaker of the senate, shall receive for his services the same compensation which shall, for the same period, be allowed to the speaker of the house of representatives and no more; and during the time he administers the government as governor, he shall receive the same compensation which the governor would have received had he been employed in the duties of his office.

SEC. 17. If the lieutenant-governor shall be called upon to administer the government, and shall, while in such administration, resign, die, or be absent from the State during the recess of the general assembly, it shall be the duty of the secretary for the time being to convene the senate for the purpose of choosing a speaker.

SEC. 18. In case of an impeachment of the governor, his removal from office, death, refusal to qualify, resignation or absence from the State, the lieutenant-governor shall exercise all the power and authority appertaining to the office of governor, until the time pointed out by this constitution for the election of governor shall arrive, unless the general assembly shall provide by law for the election of a governor to fill such vacancy.

SEC. 19. The governor for the time being, and the judges of the supreme court or a major part of them, together with the governor, shall be, and are hereby, constituted a council to revise all bills about to be passed into laws by the general assembly; and for that purpose shall assemble themselves from time to time when the general assembly shall be convened, for which nevertheless they shall not receive any salary or consideration under any pretence whatever; and all bills which have passed the senate and house of representatives shall, before they become laws, be presented to the said council for their revisal and consideration; and if, upon such revisal and considera-

tion, it should appear improper to the said council or a majority of them, that the bill should become a law of this State, they shall return the same, together with their objections thereto, in writing, to the senate or house of representatives, (in whichsoever the same shall have originated,) who shall enter the objections set down by the council at large in their minutes, and proceed to reconsider the said bill. But if, after such reconsideration, the said senate or house of representatives shall, notwithstanding the said objections, agree to pass the same by a majority of the whole number of members elected, it shall, together with the said objections, be sent to the other branch of the general assembly, where it shall also be reconsidered, and if approved by a majority of all the members elected, it shall become a law. If any bill shall not be returned within ten days after it shall have been presented, the same shall be a law, unless the general assembly shall by their adjournment, render a return of the said bill in ten days impracticable; in which case the said bill shall be returned on the first day of the meeting of the general assembly, after the expiration of the said ten days, or be a law.

SEC. 20. The governor shall nominate, and by and with the advice and consent of the senate appoint, a secretary of state, who shall keep a fair register of the official acts of the governor, and, when required, shall lay the same, and all papers, minutes, and vouchers relative thereto, before either branch of the general assembly, and shall perform such other duties as shall be assigned him by law.

SEC. 21. The State treasurer and public printer or printers for the State shall be appointed biennially by the joint vote of both branches of the general assembly: *Provided*, That during the recess of the same the governor shall have power to fill such vacancies as may happen in either of said offices.

SEC. 22. The governor shall nominate, and by and with the advice and consent of the senate appoint, all officers whose offices are established by this constitution, or shall be established by law, and whose appointments are not herein otherwise provided for: *Provided, however*, That inspectors, collectors, and their deputies, surveyors of the highways, constables, jailers, and such inferior officers whose jurisdiction may be confined within the limits of the county, shall be appointed in such manner as the general assembly shall prescribe.

ARTICLE IV.

SECTION 1. The judicial power of this State shall be vested in one supreme court, and such inferior courts as the general assembly shall, from time to time, ordain and establish.

SEC. 2. The supreme court shall be holden at the seat of government, and shall have an appellate jurisdiction only, except in cases relating to the revenue, in cases of *mandamus*, and in such cases of impeachment as may be required to be tried before it.

SEC. 3. The supreme court shall consist in a chief-justice and three associates, any two of whom shall form a quorum. The number of justices may, however, be increased by the general assembly after the year 1824.

SEC. 4. The justices of the supreme court and the judges of the inferior courts shall be appointed by joint ballot of both branches of the general assembly, and commissioned by the governor, and shall hold their offices during good behavior until the end of the first session of the general assembly, which shall be begun and held after the 1st day of January, in the year of our Lord 1824, at which time their commissions shall expire; and until the expiration of which time the said justices, respectively, shall hold circuit courts in the several counties, in such manner, and at such times, and shall have and exercise such jurisdiction as the general assembly shall by law prescribe. But ever after the aforesaid period the justices of the supreme court shall be commissioned during good behavior, and the justices thereof shall not hold circuit courts unless required by law.

SEC. 5. The judges of the inferior courts shall hold their offices during good behavior, but for any reasonable cause, which shall not be sufficient ground for impeachment, both the judges of the supreme and inferior courts shall be removed from office on the address of two-thirds of each branch of the general assembly: *Provided*

always, That no member of either house of the general assembly, nor any person connected with a member by consanguinity or affinity, shall be appointed to fill the vacancy occasioned by such removal. The said justices of the supreme court, during their temporary appointment, shall receive an annual salary of one thousand dollars, payable quarter-yearly out of the public treasury. The judges of the inferior courts, and the justices of the supreme court who may be appointed after the end of the first session of the general assembly which shall be begun and held after the first day of January, in the year of our Lord 1824, shall have adequate and competent salaries, which shall not be diminished during their continuance in office.

SEC. 6. The supreme court, or a majority of the justices thereof, the circuit courts, or the justices thereof, shall, respectively, appoint their own clerks.

SEC. 7. All process, writs, and other proceedings shall run in the name of "The people of the State of Illinois." All prosecutions shall be carried on "In the name and by the authority of the people of the State of Illinois," and conclude "Against the peace and dignity of the same."

SEC. 8. A competent number of justices of the peace shall be appointed in each county, in such manner as the general assembly may direct, whose time of service, power, and duties shall be regulated and defined by law. And justices of the peace, when so appointed, shall be commissioned by the governor.

ARTICLE V.

SECTION 1. The militia of the State of Illinois shall consist of all free, male, able-bodied persons, (negroes, mulattoes, and Indians excepted,) resident in the State, between the age of eighteen and forty-five years, (except such persons as now are, or hereafter may be, exempted by the law of the United States or of this State,) and shall be armed, equipped, and trained as the general assembly may provide by law.

SEC. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace: *Provided*, Such person or persons shall pay an equivalent for such exemptions.

SEC. 3. Company, battalion, and regimental officers, staff officers excepted, shall be elected by the persons composing their several companies, battalions, and regiments.

SEC. 4. Brigadier and major generals shall be elected by the officers of their brigades and divisions respectively.

SEC. 5. All militia officers shall be commissioned by the governor, and may hold their commissions during good behavior, or until they arrive at the age of sixty years.

SEC. 6. The militia shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at musters and elections of officers, and in going to and returning from the same.

ARTICLE VI.

SECTION 1. Neither slavery nor involuntary servitude shall hereafter be introduced into this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; nor shall any male person, arrived at the age of twenty-one years, nor female person arrived at the age of eighteen years, be held to serve any person as a servant, under any indenture hereafter made, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a *bona-fide* consideration received or to be received for their service. Nor shall any indenture of any negro or mulatto, hereafter made and executed out of this State, or if made in this State, where the term of service exceeds one year, be of the least validity, except those given in cases of apprenticeship.

SEC. 2. No person bound to labor in any other State shall be hired to labor in this State, except within the tract reserved for the salt-works near Shawneetown; nor even at that place for a longer period than one year at any one time; nor shall it be allowed there after the year 1825. Any violation of this article shall effect the emancipation of such person from his obligation to service.

SEC. 3. Each and every person who has been bound to service by contract or indenture in virtue of the laws of Illinois Territory heretofore existing, and in conformity to the provisions of the same, without fraud or collusion, shall be held to a specific performance of their contracts or indentures; and such negroes and mulattoes as have been registered in conformity with the aforesaid laws shall serve out the time appointed by said laws: *Provided, however,* That the children hereafter born of such person, negroes, or mulattoes, shall become free, the males at the age of twenty-one years, the females at the age of eighteen years. Each and every child born of indentured parents shall be entered with the clerk of the county in which they reside, by their owners, within six months after the birth of said child.

ARTICLE VII.

SECTION 1. Whenever two-thirds of the general assembly shall think it necessary to alter or amend this constitution, they shall recommend to the electors, at the next election of members to the general assembly, to vote for or against a convention; and if it shall appear that a majority of all the citizens of the State, voting for representatives, have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there may be in the general assembly, to be chosen in the same manner, at the same place, and by the same electors that choose the general assembly; and which convention shall meet within three months after said election, for the purpose of revising, altering, or amending this constitution.

ARTICLE VIII.

That the general, great, and essential principles of liberty and free government may be recognized and unalterably established, we declare:

SECTION 1. That all men are born equally free and independent, and have certain inherent and indefeasible rights; among which are those of enjoying and defending life and liberty, and of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness.

SEC. 2. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious establishments or modes of worship.

SEC. 4. That no religious test shall ever be required as a qualification to any office or public trust under this State.

SEC. 5. That elections shall be free and equal.

SEC. 6. That the right of the trial by jury shall remain inviolate.

SEC. 7. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

SEC. 8. That no freeman shall be imprisoned or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner deprived of his life, liberty, or property, but by the judgment of his peers or the law of the land. And all lands which have been granted as a common to the inhabitants of any town, hamlet, village, or corporation, by any person, body politic or corporate, or by any government having power to make such grant, shall forever remain common to the inhabitants of such town, hamlet, village, or corporation; and the said commons shall not be leased, sold, or divided under any pretence whatever: *Provided, however,* That nothing in this sec-

tion shall be so construed as to affect the commons of Cahokia or Prairie du Pont: *Provided also*, That the general assembly shall have power and authority to grant the same privileges to the inhabitants of the said villages of Cahokia and Prairie du Pont as are hereby granted to the inhabitants of other towns, hamlets, and villages.

SEC. 9. That in all criminal prosecutions, the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his favor; and in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; and that he shall not be compelled to give evidence against himself.

SEC. 10. That no person shall, for any indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces, or the militia when in actual service, in time of war, or public danger, by leave of the courts, for oppression or misdemeanor in office.

SEC. 11. No person shall, for the same offence, be twice put in jeopardy of his life or limb; nor shall any man's property be taken or applied to public use, without the consent of his representatives in the general assembly, nor without just compensation being made to him.

SEC. 12. Every person within this State ought to find a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property, or character; he ought to obtain right and justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws.

SEC. 13. That all persons shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 14. All penalties shall be proportioned to the nature of the offence, the true design of all punishment being to reform, not to exterminate, mankind.

SEC. 15. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law, or in cases where there is strong presumption of fraud.

SEC. 16. No *ex post facto* law, nor any law impairing the validity of contracts, shall ever be made; and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 17. That no person shall be liable to be transported out of this State for any offence committed within the same.

SEC. 18. That a frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

SEC. 19. That the people have a right to assemble together in a peaceable manner to consult for their common good, to instruct their representatives, and to apply to the general assembly for redress of grievances.

SEC. 20. That the mode of levying a tax shall be by valuation, so that every person shall pay a tax in proportion to the value of the property he or she has in his or her possession.

SEC. 21. That there shall be no other banks or moneyed institutions in this State but those already provided by law, except a State bank and its branches, which may be established and regulated by the general assembly of the State as they may think proper.

SEC. 22. The printing-presses shall be free to every person who undertakes to examine the proceedings of the general assembly or of any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

SEC. 23. In prosecutions for the publication of papers investigating the official conduct of officers, or of men acting in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels the jury shall have the right of determining both the law and the fact, under the direction of the court, as in other cases.

SCHEDULE.

SECTION 1. That no inconveniences may arise from the change of a territorial to a permanent State government, it is declared by the convention that all rights, suits, actions, prosecutions, claims, and contracts, both as it respects individuals and bodies-corporate, shall continue as if no change had taken place in this government in virtue of the laws now in force.

SEC. 2. All fines, penalties, and forfeitures due and owing to the Territory of Illinois shall inure to the use of the State. All bonds executed to the governor, or to any other officer in his official capacity in the Territory, shall pass over to the governor or to the officers of the State, and their successors in office, for the use of the State, by him or by them to be respectively assigned over to the use of those concerned, as the case may be.

SEC. 3. No sheriff or collector of public moneys shall be eligible to any office in this State, until they have paid over, according to law, all moneys which they may have collected by virtue of their respective offices.

SEC. 4. There shall be elected in each county three county commissioners for the purpose of transacting all county business, whose time of service, power, and duties shall be regulated and defined by law.

SEC. 5. The governor, secretary, and judges, and all other officers under the territorial government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of this constitution.

SEC. 6. The governor of this State shall make use of his private seal until a State seal shall be provided.

SEC. 7. The oaths of office herein directed to be taken may be administered by any justice of the peace until the general assembly shall otherwise direct.

SEC. 8. [Apportionment of senators and representatives.*]

SEC. 9. The president of the convention shall issue writs of election, directed to the several sheriffs of the several counties, or in case of the absence or disability of any sheriff, then to the deputy sheriff, and in case of the absence or disability of the deputy sheriff, then such writ to be directed to the coroner, requiring them to cause an election to be held for governor, lieutenant-governor, Representative to the present Congress of the United States, and members to the general assembly, and sheriffs and coroners in the respective counties; such election to commence on the third Thursday of September next, and to continue for that and the two succeeding days; and which election shall be conducted in the manner prescribed by the existing election laws of the Illinois Territory; and the said governor, lieutenant-governor, members of the general assembly, sheriffs, and coroners, then duly elected, shall continue to exercise the duties of their respective offices for the time prescribed by this constitution, and until their successor or successors are qualified, and no longer.

SEC. 10. An auditor of public accounts, an attorney-general, and such other officers for the State as may be necessary, may be appointed by the general assembly, whose duties may be regulated by law.

SEC. 11. It shall be the duty of the general assembly to enact such laws as may be necessary and proper to prevent the practice of duelling.

SEC. 12. All white male inhabitants above the age of twenty-one years, who shall be actual residents of this State at the signing of this constitution shall have a right to vote at the election to be held on the third Thursday and the two following days of September next.

SEC. 13. The seat of government for the State shall be at Kaskaskia until the gen-

*This section was changed by the following acts: Laws 1821, (14 Feb.,) 154. Resolution recommending a special session to make a new apportionment, Laws 1825, 186. Act in pursuance thereof: Laws 1826, (12 Jan.,) 45; Laws 1831, (7 Feb.,) 5; Laws 1836, (14 Jan.,) 268. Same repealed: R. S., 1845, 455; Laws 1841, (26 Feb.,) 23; Laws 1843, (3 Feb.,) 10; *id*, (6 Feb.,) 11. Acts providing for special election of senator and representatives: Laws 1843, 136, 137. Apportionment acts amended: Laws 1845, (21 Feb.,) 51; *id.*, (1 Mar.,) 120; *id.*, (15 Jan.,) 191; *id.*, (23 Jan.,) 197. General act: Laws 1817, (25 Feb.,) 3.

eral assembly shall otherwise provide. The general assembly, at their first session holden under the authority of this constitution, shall petition the Congress of the United States to grant to this State a quantity of land, to consist of not more than four, nor less than one section, or to give to this State the right of pre-emption in the purchase of the said quantity of land; the said land to be situate on the Kaskaskia River, and, as near as may be, east of the third principal meridian on said river. Should the prayer of such petition be granted, the general assembly, at their next session thereafter, shall provide for the appointment of five commissioners to make the selection of said land so granted; and shall further provide for laying out a town upon the land so selected; which town, so laid out, shall be the seat of government of this State for the term of twenty years. Should, however, the prayer of said petition not be granted, the general assembly shall have power to make such provisions for a permanent seat of government as may be necessary, and shall fix the same where they may think best.

SEC. 14. Any person of thirty years of age who is a citizen of the United States and has resided within the limits of this State two years next preceding his election, shall be eligible to the office of lieutenant-governor; anything in the thirteenth section of the third article of this constitution contained to the contrary notwithstanding.

RESOLUTION OF CONGRESS—1818.

Resolution declaring the admission of the State of Illinois into the Union.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That whereas, in pursuance of an act of Congress passed on the eighteenth day of April, one thousand eight hundred and eighteen, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States," the people of said Territory did, on the twenty-sixth day of August, in the present year, by a convention called for that purpose, form for themselves a constitution and State government, which constitution and State government, so formed, is republican, and in conformity to the principles of the articles of compact between the original States and the people and States in the territory northwest of the river Ohio, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Illinois shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

APPROVED, December 3, 1818.

CONSTITUTION OF ILLINOIS—1848.

PREAMBLE.

We, the people of the State of Illinois, grateful to Almighty God for the civil, political, and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations, in order to form a more perfect government, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the State of Illinois.

ARTICLE I.

BOUNDARIES.

SECTION 1. The boundaries and jurisdiction of the State shall be as follows, to wit: Beginning at the mouth of the Wabash River; thence up the same, and with the line

of Indiana, to the northwest corner of said State; thence east, with the line of the same State, to the middle of Lake Michigan; thence north, along the middle of said lake, to north latitude forty-two degrees and thirty minutes; thence west to the middle of the Mississippi River, and thence down, along the middle of that river, to its confluence with the Ohio River; and thence up the latter river, along its northwestern shore, to the place of beginning: *Provided*, That this State shall exercise such jurisdiction upon the Ohio River as she is now entitled to, or such as may hereafter be agreed upon by this State and the State of Kentucky.

ARTICLE II.

CONCERNING THE DISTRIBUTION OF THE POWERS OF GOVERNMENT.

SECTION 1. The powers of the government of the State of Illinois shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

SEC. 2. No person or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted, and all acts in contravention of this section shall be void.

ARTICLE III.

OF THE LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives, both to be elected by the people.

SEC. 2. The first election for senators and representatives shall be held on the Tuesday after the first Monday in November, one thousand eight hundred and forty-eight; and thereafter, elections for members of the general assembly shall be held once in two years, on the Tuesday next after the first Monday in November, in each and every county, at such places therein as may be provided by law.

SEC. 3. No person shall be a representative who shall not have attained the age of twenty-five years; who shall not be a citizen of the United States, and three years an inhabitant of this State; who shall not have resided within the limits of the county or district in which he shall be chosen twelve months next preceding his election, if such county or district shall have been so long erected, but, if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken, unless he shall have been absent on the public business of the United States or of this State; and who, moreover, shall not have paid a State or county tax.

SEC. 4. No person shall be a senator who shall not have attained the age of thirty years; who shall not be a citizen of the United States, five years an inhabitant of this State, and one year in the county or district in which he shall be chosen immediately preceding his election, if such county or district shall have been so long erected, but, if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken, unless he shall have been absent on the public business of the United States or of this State, and shall not, moreover, have paid a State or county tax.

SEC. 5. The senators at their first session herein provided for shall be divided by lot, as near as can be, into two classes. The seats of the first class shall be vacated at the expiration of the second year, and those of the second class at the expiration of the fourth year; so that one-half thereof, as near as possible, may be biennially chosen forever thereafter.

SEC. 6. The senate shall consist of twenty-five members, and the house of representatives shall consist of seventy-five members, until the population of the State shall amount to one million of souls, when five members may be added to the house, and five additional members for every five hundred thousand inhabitants thereafter, until the whole number of representatives shall amount to one hundred; after which

the number shall neither be increased nor diminished; to be apportioned among the several counties according to the number of white inhabitants. In all future apportionments, where more than one county shall be thrown into a representative district, all the representatives to which said counties may be entitled shall be elected by the entire district.

SEC. 7. No person elected to the general assembly shall receive any civil appointment within this State, or to the Senate of the United States, from the governor, the governor and senate, or from the general assembly, during the term for which he shall have been elected; and all such appointments, and all votes given for any such member for any such office or appointment, shall be void; nor shall any member of the general assembly be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the time for which he shall have been elected, or during one year after the expiration thereof.

SEC. 8. In the year one thousand eight hundred and fifty-five, and every tenth year thereafter, an enumeration of the inhabitants of this State shall be made in such manner as shall be directed by law; and in the year eighteen hundred and fifty, and every tenth year thereafter, the census taken by authority of the Government of the United States shall be adopted by the general assembly as the enumeration of this State; and the number of senators and representatives shall, at the first regular session holden after the returns herein provided for are made, be apportioned among the several counties or districts to be established by law, according to the number of white inhabitants.

SEC. 9. Senatorial and representative districts shall be composed of contiguous territory bounded by county lines; and only one senator allowed to each senatorial, and not more than three representatives to any representative district: *Provided*, That cities and towns, containing the requisite population, may be erected into separate districts.

SEC. 10. In forming senatorial and representative districts, counties, containing a population of not more than one-fourth over the existing ratio, shall form separate districts, and the excess shall be given to the nearest county or counties not having a senator or representative, as the case may be, which has the largest white population.

SEC. 11. The first session of the general assembly shall commence on the first Monday of January, one thousand eight hundred and forty-nine; and forever after the general assembly shall meet on the first Monday of January next ensuing the election of the members thereof, and at no other period, unless as provided by this constitution.

SEC. 12. The senate and house of representatives, when assembled, shall each choose a speaker and other officers, (the speaker of the senate excepted.) Each house shall judge of the qualifications and election of its members, and sit upon its own adjournments. Two-thirds of each house shall constitute a quorum; but a smaller number may adjourn from day to day, and compel the attendance of absent members.

SEC. 13. Each house shall keep a journal of its proceedings, and publish them. The yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journals.

SEC. 14. Any two members of either house shall have liberty to dissent and protest against any act or resolution which they may think injurious to the public, or to any individual, and have the reasons of their dissent entered on the journals.

SEC. 15. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds of all the members elected, expel a member, but not a second time for the same cause; and the reason for such expulsion shall be entered upon the journal, with the names of the members voting upon the question.

SEC. 16. When vacancies shall happen in either house, the governor, or the person exercising the powers of governor, shall issue writs of election to fill such vacancies.

SEC. 17. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general as-

sembly, and in going and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 18. Each house may punish, by imprisonment during its session, any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence: *Provided*, Such imprisonment shall not, at any one time, exceed twenty-four hours.

SEC. 19. The doors of each house, and of committees of the whole, shall be kept open, except in such cases as, in the opinion of the house, require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting.

SEC. 20. The style of the laws of this State shall be: "*Be it enacted by the people of the State of Illinois, represented in the general assembly.*"

SEC. 21. Bills may originate in either house, but may be altered, amended, or rejected, by the other; and, on the final passage of all bills, the vote shall be by ayes and noes, and shall be entered on the journal; and no bill shall become a law without the concurrence of a majority of all the members elect in each house.

SEC. 22. Bills making appropriations for the pay of the members and officers of the general assembly, and for the salaries of the officers of the government, shall not contain any provision on any other subject.

SEC. 23. Every bill shall be read on three different days in each house, unless, in case of urgency, three-fourths of the house, where such bill is so depending, shall deem it expedient to dispense with this rule; and every bill, having passed both houses, shall be signed by the speakers of their respective houses; and no private or local law which may be passed by the general assembly shall embrace more than one subject, and that shall be expressed in the title. And no public act of the general assembly shall take effect or be in force until the expiration of sixty days from the end of the session at which the same may be passed, unless, in case of emergency, the general assembly shall otherwise direct.

SEC. 24. The sum of two dollars per day, for the first forty-two days' attendance, and one dollar per day for each day's attendance thereafter, and ten cents for each necessary mile's travel, going to and returning from the seat of government, shall be allowed to the members of the general assembly, as a compensation for their services, and no more. The speaker of the house of representatives shall be allowed the sum of one dollar per day, in addition to his per diem as a member.

SEC. 25. The per diem and mileage allowed to each member of the general assembly shall be certified by the speakers of their respective houses, and entered on the journal, and published at the close of each session.

SEC. 26. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and an accurate statement of the receipts and expenditures of the public moneys shall be attached to, and published with, the laws at the rising of each session of the general assembly. And no person, who has been or may be a collector or holder of the public moneys, shall be eligible to a seat in either house of the general assembly, nor be eligible to any office of profit or trust in this State, until such person shall have accounted for, and paid into the treasury, all sums for which he may be accountable.

SEC. 27. The house of representatives shall have the sole power of impeaching; but a majority of all the members elected must concur in an impeachment. All impeachments shall be tried by the senate; and when sitting for that purpose the senators shall be upon oath, or affirmation, to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the senators elected.

SEC. 28. The governor, and other civil officers under this State, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment, and punishment, according to law.

SEC. 29. No judge of any court of law or equity, secretary of state, attorney-gen-

eral, attorney for the State, recorder, clerk of any court of record, sheriff, or collector, member of either house of Congress, or person holding any lucrative office under the United States or of this State—provided that appointments in the militia, or justices of the peace, shall not be considered lucrative offices—shall have a seat in the general assembly; nor shall any person holding any office of honor or profit under the Government of the United States hold any office of honor or profit under the authority of this State.

SEC. 30. Every person who shall be chosen or appointed to any office of trust or profit shall, before entering upon the duties thereof, take an oath to support the Constitution of the United States, and of this State, and also an oath of office.

SEC. 31. The general assembly shall have full power to exclude from the privilege of electing, or being elected, any person convicted of bribery, perjury, or other infamous crime.

SEC. 32. The general assembly shall have no power to grant divorces, but may authorize the courts of justice to grant them for such cause as may be specified by law: *Provided*, That such laws be general and uniform in their operation.

SEC. 33. The general assembly shall never grant or authorize extra compensation to any public officer, agent, servant, or contractor, after the service shall have been rendered, or the contract entered into.

SEC. 34. The general assembly shall direct by law in what manner suits may be brought against the State.

SEC. 35. The general assembly shall have no power to authorize lotteries for any purpose, nor to revive or extend the charter of the State bank, or the charter of any other bank heretofore existing in this State, and shall pass laws to prohibit the sale of lottery-tickets in this State.

SEC. 36. The general assembly shall have no power to authorize, by private or special law, the sale of any lands or other real estate belonging in whole or in part to any individual or individuals.

SEC. 37. Each general assembly shall provide for all the appropriations necessary for the ordinary and contingent expenses of the government until the adjournment of the next regular session, the aggregate amount of which shall not be increased without a vote of two-thirds of each house, nor exceed the amount of revenue authorized by law to be raised in such time: *Provided*, The State may, to meet casual deficits or failures in revenue, contract debts never to exceed in the aggregate fifty thousand dollars; and the moneys thus borrowed shall be applied to the purpose for which they were obtained, or to repay the debt thus made, and to no other purpose; and no other debt, except for the purpose of repelling invasion, suppressing insurrection, or defending the State in war (for payment of which the faith of the State shall be pledged) shall be contracted, unless the law authorizing the same shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for members of the general assembly at such election. The general assembly shall provide for the publication of said law for three months, at least, before the vote of the people shall be taken upon the same; and provision shall be made, at the time, for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose, or from other sources of revenue; which law, providing for the payment of such interest by such tax, shall be irrepealable until such debt be paid: *And provided further*, That the law levying the tax shall be submitted to the people with the law authorizing the debt to be contracted.

SEC. 38. The credit of the State shall not, in any manner, be given to, or in aid of, any individual, association, or corporation.

SEC. 39. The general assembly shall provide, by law, that the fuel and stationery furnished for the use of the State, the copying, printing, binding, and distributing the laws and journals, and all other printing ordered by the general assembly, shall be let, by contract, to the lowest responsible bidder; and that no member of the general assembly, or other officer of the State, shall be interested, either directly or indirectly, in any such contract: *Provided*, That the general assembly may fix a maximum price.

SEC. 40. Until there shall be a new apportionment of senators and representatives, the State shall be divided into senatorial and representative districts; and the senators and representatives shall be apportioned among the several districts as follows, viz:



*Senatorial Districts.**

1. The counties of Alexander, Union, Pulaski, Johnson, Massac, Pope, and Hardin shall constitute the first senatorial district, and shall be entitled to one senator.

2. The counties of Gallatin, Saline, Williamson, Franklin, and White shall constitute the second senatorial district, and be entitled to one senator.

3. The counties of Jefferson, Wayne, Marion and Hamilton shall constitute the third senatorial district, and be entitled to one senator.

4. The counties of Washington, Perry, Randolph, and Jackson shall constitute the fourth senatorial district, and be entitled to one senator.

5. The counties of Saint Clair and Monroe shall constitute the fifth senatorial district, and be entitled to one senator.

6. The counties of Madison and Clinton shall constitute the sixth senatorial district, and be entitled to one senator.

7. The counties of Christian, Shelby, Montgomery, Bond, and Fayette shall constitute the seventh senatorial district, and be entitled to one senator.

8. The counties of Effingham, Jasper, Clay, Richland, Lawrence, Edwards, and Wabash shall constitute the eighth senatorial district, and be entitled to one senator.

9. The counties of Edgar, Clark, and Crawford shall constitute the ninth senatorial district, and be entitled to one senator.

10. The counties of Vermillion, Champaign, Piatt, Moultrie, Coles, and Cumberland shall constitute the tenth senatorial district, and be entitled to one senator.

11. The counties of Tazewell, McLean, Logan, De Witt, and Macon shall constitute the eleventh senatorial district, and be entitled to one senator.

12. The counties of Sangamon, Menard, and Mason shall constitute the twelfth senatorial district, and be entitled to one senator.

13. The counties of Macoupin, Jersey, Greene, and Calhoun shall constitute the thirteenth senatorial district, and be entitled to one senator.

14. The counties of Morgan, Scott, and Cass shall constitute the fourteenth senatorial district, and be entitled to one senator.

15. The counties of Adams and Pike shall constitute the fifteenth senatorial district, and be entitled to one senator.

16. The counties of McDonough, Schuyler, Brown, and Highland shall constitute the sixteenth senatorial district, and be entitled to one senator.

17. The counties of Hancock and Henderson shall constitute the seventeenth senatorial district, and be entitled to one senator.

18. The counties of Fulton and Peoria shall constitute the eighteenth senatorial district, and be entitled to one senator.

19. The counties of Rock Island, Henry, Mercer, Warren, Knox, and Stark shall constitute the nineteenth senatorial district, and be entitled to one senator.

20. The counties of La Salle, Bureau, Putnam, Marshall, Woodford, Livingston, and Grundy shall constitute the twentieth senatorial district, and be entitled to one senator.

21. The counties of Du Page, Kendall, Will, and Iroquois shall constitute the twenty-first senatorial district, and be entitled to one senator.

22. The counties of Ogle, Lee, De Kalb, and Kane shall constitute the twenty-second senatorial district, and be entitled to one senator.

23. The counties of Jo Daviess, Stephenson, Carroll, and Whitesides shall constitute the twenty-third senatorial district, and be entitled to one senator.

24. The counties of McHenry, Boone, and Winnebago shall constitute the twenty-fourth senatorial district, and be entitled to one senator.

25. The counties of Cook and Lake shall constitute the twenty-fifth senatorial district, and be entitled to one senator.

* **This apportionment was changed by the following acts: Creating 25 senatorial and 58 representative districts, February 27, 1854; creating 25 senatorial and 61 representative districts, January 31, 1861.**

Representative districts.

1. The counties of Union, Alexander, and Pulaski shall constitute the first representative district, and be entitled to one representative.

2. The counties of Massac, Pope, and Hardin shall constitute the second representative district, and be entitled to one representative.

3. The counties of Gallatin and Saline shall constitute the third representative district, and be entitled to one representative.

4. The counties of Johnson and Williamson shall constitute the fourth representative district, and be entitled to one representative.

5. The counties of Jackson and Franklin shall constitute the fifth representative district, and be entitled to one representative.

6. The counties of Marion, Jefferson, Wayne, and Hamilton shall constitute the sixth representative district, and be entitled to three representatives: *Provided*, That no county in said district shall have more than one of said representatives, and the county from which a senator shall be selected shall not be entitled to a representative residing in said county.

7. The county of White shall constitute the seventh representative district, and be entitled to one representative.

8. The counties of Wabash and Edwards shall constitute the eighth representative district, and be entitled to one representative.

9. The counties of Lawrence and Richland shall constitute the ninth representative district, and be entitled to one representative.

10. The counties of Crawford and Jasper shall constitute the tenth representative district, and be entitled to one representative.

11. The county of Coles shall constitute the eleventh representative district, and be entitled to one representative.

12. The county of Clark shall constitute the twelfth representative district, and be entitled to one representative.

13. The counties of Cumberland, Effingham, and Clay shall constitute the thirteenth representative district, and be entitled to one representative.

14. The county of Fayette shall constitute the fourteenth representative district, and be entitled to one representative.

15. The counties of Montgomery, Bond, and Clinton shall constitute the fifteenth representative district, and be entitled to two representatives.

16. The counties of Washington and Perry shall constitute the sixteenth representative district, and be entitled to one representative.

17. The county of Randolph shall constitute the seventeenth representative district, and be entitled to one representative.

18. The county of Monroe shall constitute the eighteenth representative district, and be entitled to one representative.

19. The county of Saint Clair shall constitute the nineteenth representative district, and be entitled to two representatives.

20. The county of Madison shall constitute the twentieth representative district, and be entitled to two representatives.

21. The county of Macoupin shall constitute the twenty-first representative district, and be entitled to one representative.

22. The counties of Jersey and Greene shall constitute the twenty-second representative district, and be entitled to two representatives.

23. The county of Scott shall constitute the twenty-third representative district, and be entitled to one representative.

24. The county of Morgan shall constitute the twenty-fourth representative district, and be entitled to two representatives.

25. The counties of Cass and Menard shall constitute the twenty-fifth representative district, and be entitled to one representative.

26. The county of Sangamon shall constitute the twenty-sixth representative district, and be entitled to two representatives.

27. The counties of Mason and Logan shall constitute the twenty-seventh representative district, and be entitled to one representative.
28. The county of Tazewell shall constitute the twenty-eighth representative district, and be entitled to one representative.
29. The counties of McLean and De Witt shall constitute the twenty-ninth representative district, and be entitled to one representative.
30. The county of Vermillion shall constitute the thirtieth representative district, and be entitled to one representative.
31. The county of Edgar shall constitute the thirty-first representative district, and be entitled to one representative.
32. The counties of Champaign, Piatt, Moultrie, and Macon shall constitute the thirty-second representative district, and be entitled to one representative.
33. The counties of Shelby and Christian shall constitute the thirty-third representative district, and be entitled to one representative.
34. The counties of Pike and Calhoun shall constitute the thirty-fourth representative district, and be entitled to two representatives.
35. The counties of Adams, Highland, and Brown shall constitute the thirty-fifth representative district, and be entitled to three representatives.
36. The county of Schuyler shall constitute the thirty-sixth representative district, and be entitled to one representative.
37. The county of Hancock shall constitute the thirty-seventh representative district, and be entitled to two representatives.
38. The county of McDonough shall constitute the thirty-eighth representative district, and be entitled to one representative.
39. The county of Fulton shall constitute the thirty-ninth representative district, and be entitled to two representatives.
40. The county of Peoria shall constitute the fortieth representative district, and be entitled to one representative.
41. The county of Knox shall constitute the forty-first representative district, and be entitled to one representative.
42. The counties of Mercer, Warren, and Henderson shall constitute the forty-second representative district, and be entitled to two representatives.
43. The counties of Rock Island, Henry, and Stark shall constitute the forty-third representative district, and be entitled to one representative.
44. The counties of Whitesides and Lee shall constitute the forty-fourth representative district, and be entitled to one representative.
45. The counties of Carroll and Ogle shall constitute the forty-fifth representative district, and be entitled to one representative.
46. The counties of Jo Daviess and Stephenson shall constitute the forty-sixth representative district, and be entitled to two representatives.
47. The county of Winnebago shall constitute the forty-seventh representative district, and be entitled to one representative.
48. The counties of Putnam, Marshall, and Woodford shall constitute the forty-eighth representative district, and be entitled to one representative.
49. The counties of La Salle, Grundy, Livingston, and Bureau shall constitute the forty-ninth representative district, and be entitled to two representatives.
50. The counties of Du Page, Kendall, Will, and Iroquois shall constitute the fiftieth representative district, and be entitled to three representatives.
51. The counties of Kane and De Kalb shall constitute the fifty-first representative district, and be entitled to two representatives.
52. The counties of Boone and McHenry shall constitute the fifty-second representative district, and be entitled to two representatives.
53. The county of Lake shall constitute the fifty-third representative district, and be entitled to one representative.
54. The county of Cook shall constitute the fifty-fourth representative district, and be entitled to two representatives.

SEC. 41. Until the general assembly shall otherwise provide, the clerks of the county commissioners' courts in each of the aforesaid senatorial districts, and in such of the

representative districts as may be composed of more than one county, shall meet at the county-seat of the oldest county in said district, within thirty days next after any election for senator or representative therein, for the purpose of comparing and canvassing the votes given at such election; and the said clerks shall in all other respects conform to the laws on the subject in force at the time of the adoption of this constitution.

ARTICLE IV.

OF THE EXECUTIVE DEPARTMENT.

SECTION 1. The executive power of the State shall be vested in a governor.

SEC. 2. The first election of governor shall be held on Tuesday next after the first Monday in November, A. D. 1848; and the next election shall be held on Tuesday next after the first Monday of November, A. D. 1852; and thereafter an election for governor shall be held once in four years, on Tuesday next after the first Monday of November. The governor shall be chosen by the electors of the members of the general assembly, at the same places and in the same manner that they shall, respectively, vote for members thereof. The returns for every election of governor shall be sealed up, and transmitted to the seat of government, by the returning officers, directed to the speaker of the house of representatives, who shall open and publish them in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be governor; but if two or more be equal and highest in votes, then one of them shall be chosen governor by joint ballot of both houses of the general assembly. Contested elections shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 3. The first governor shall enter upon the duties of his office on the second Monday of January, A. D. 1849, and shall hold his office until the second Monday of January, A. D. 1853, and until his successor shall have been elected and qualified; and thereafter the governor shall hold his office for the term of four years, and until his successor shall have been elected and qualified; but he shall not be eligible to such office more than four years in any term of eight years, nor to any other office until after the expiration of the term for which he was elected.

SEC. 4. No person, except a citizen of the United States, shall be eligible to the office of governor; nor shall any person be eligible to that office, who shall not have attained the age of thirty-five years, and been ten years a resident of this State, and fourteen years a citizen of the United States.

SEC. 5. The governor shall reside at the seat of government, and receive a salary of fifteen hundred dollars per annum, which shall not be increased or diminished; and he shall not, during the time for which he shall have been elected, receive any emolument from the United States, or either of them.

SEC. 6. Before he enters upon the duties of his office, he shall take the following oath or affirmation, to wit: "I do solemnly swear [or affirm] that I will faithfully execute the duties appertaining to the office of governor of the State of Illinois; and will, to the best of my ability, preserve, protect, and defend the constitution of this State; and will also support the Constitution of the United States."

SEC. 7. He shall, from time to time, give the general assembly information of the state of the government, and recommend to their consideration such measures as he shall deem expedient.

SEC. 8. The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offences, except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law, relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the general assembly at its next meeting, when the general assembly shall pardon the convict, commute the sentence, direct the execution thereof, or grant a further reprieve. He shall, biennially, communicate to the general assembly each case of reprieve, commutation, or pardon

granted, stating the name of the convict, the crime for which he was convicted, the sentence and its date, and the date of commutation, pardon, or reprieve.

SEC. 9. He may require information in writing from the officers in the executive departments, upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

SEC. 10. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state, in said proclamation, the purpose for which they are to convene; and the general assembly shall enter on no legislative business except that for which they were specially called together.

SEC. 11. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 12. The governor shall nominate, and by and with the advice and consent of the senate (a majority of all the senators concurring) appoint, all officers whose offices are established by this constitution, or which may be created by law, and whose appointments are not otherwise provided for; and no such officer shall be appointed or elected by the general assembly.

SEC. 13. In case of disagreement between the two houses with respect to the time of adjournment, the governor shall have power to adjourn the general assembly to such time as he thinks proper: *Provided*, It be not to a period beyond the next constitutional meeting of the same.

SEC. 14. A lieutenant-governor shall be chosen at every election of governor in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant-governor, the electors shall distinguish whom they vote for as governor, and whom as lieutenant-governor.

SEC. 15. The lieutenant-governor shall, by virtue of his office, be speaker of the senate, have a right, when in committee of the whole, to debate and vote on all subjects, and, whenever the senate are equally divided, to give the casting vote.

SEC. 16. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as speaker of the senate, the senators shall elect one of their own number as speaker for that occasion; and if, during the vacancy of the office of governor, the lieutenant-governor shall be impeached, removed from office, refuse to qualify, or resign, or die, or be absent from the State, the speaker of the senate shall, in like manner, administer the government.

SEC. 17. The lieutenant-governor, while he acts as speaker of the senate, shall receive for his services the same compensation which shall, for the same period, be allowed to the speaker of the house of representatives, and no more.

SEC. 18. If the lieutenant-governor shall be called upon to administer the government, and shall, while in such administration, resign, die, or be absent from the State, during the recess of the general assembly, it shall be the duty of the secretary of state, for the time being, to convene the senate for the purpose of choosing a speaker.

SEC. 19. In case of impeachment of the governor, his absence from the State, or inability to discharge the duties of his office, the powers, duties, and emoluments of the office shall devolve upon the lieutenant-governor; and in case of his death, resignation, or removal, then upon the speaker of the senate for the time being, until the governor, absent or impeached, shall return or be acquitted; or until the disqualification or inability shall cease; or until a new governor shall be elected and qualified.

SEC. 20. In case of a vacancy in the office of governor, for any other cause than those herein enumerated, or in case of the death of the governor-elect before he is qualified, the powers, duties, and emoluments of the office shall devolve upon the lieutenant-governor, or speaker of the senate, as above provided, until a new governor be elected and qualified.

SEC. 21. Every bill which shall have passed the senate and house of representatives shall, before it becomes a law, be presented to the governor; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it shall have originated; and the said house shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, a majority of the members elected shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by a

majority of the members elected, it shall become a law, notwithstanding the objections of the governor; but in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the general assembly shall, by their adjournment, prevent its return, in which case the said bill shall be returned on the first day of the meeting of the general assembly, after the expiration of said ten days, or be a law.

SEC. 22. There shall be elected by the qualified electors of this State, at the same time of the election for governor, a secretary of state, whose term of office shall be the same as that of the governor, who shall keep a fair register of the official acts of the governor, and, when required, shall lay the same, and all papers, minutes, and vouchers, relative thereto, before either branch of the general assembly, and shall perform such other duties as shall be assigned him by law, and shall receive a salary of eight hundred dollars per annum, and no more, except fees: *Provided*, That if the office of secretary of state should be vacated by death, resignation, or otherwise, it shall be the duty of the governor to appoint another, who shall hold his office until another secretary shall be elected and qualified.

SEC. 23. There shall be chosen, by the qualified electors throughout the State, an auditor of public accounts, who shall hold his office for the term of four years, and until his successor is qualified, and whose duties shall be regulated by law, and who shall receive a salary, exclusive of clerk-hire, of one thousand dollars per annum for his services, and no more.

SEC. 24. There shall be elected, by the qualified electors throughout the State, a State treasurer, who shall hold his office for two years, and until his successor is qualified; whose duties may be regulated by law, and who shall receive a salary of eight hundred dollars per annum, and no more.

SEC. 25. All grants and commissions shall be sealed with the great seal of state, signed by the governor or person administering the government, and countersigned by the secretary of state.

SEC. 26. The governor and all other civil officers shall be liable to impeachment for misdemeanor in office, during their continuance in office, and for two years thereafter.

ARTICLE V.

OF THE JUDICIARY DEPARTMENT.

SECTION 1. The judicial power of this State shall be, and is hereby, vested in one supreme court, in circuit courts, in county courts, and in justices of the peace: *Provided*, That inferior local courts, of civil and criminal jurisdiction, may be established by the general assembly in the cities of this State, but such courts shall have a uniform organization and jurisdiction in such cities.

SEC. 2. The supreme court shall consist of three judges, two of whom shall form a quorum; and the concurrence of two of said judges shall in all cases be necessary to a decision.

SEC. 3. The State shall be divided into three grand divisions, as nearly equal as may be, and the qualified electors of each division shall elect one of the said judges for the term of nine years: *Provided*, That after the first election of such judges, the general assembly may have the power to provide by law for their election by the whole State, or by divisions, as they may deem most expedient.

SEC. 4. The office of one of said judges shall be vacated, after the first election held under this article, in three years; of one, in six years; and of one, in nine years; to be decided by lot, so that one of said judges shall be elected once in every three years. The judge having the longest term to serve shall be the first chief-justice; after which, the judge having the oldest commission shall be chief-justice.

SEC. 5. The supreme court may have original jurisdiction in cases relative to the revenue, in cases of *mandamus*, *habeas corpus*, and in such cases of impeachment as may be by law directed to be tried before it, and shall have appellate jurisdiction in all other cases.

SEC. 6. The supreme court shall hold one term annually in each of the aforesaid grand divisions, at such time and place, in each of said divisions, as may be provided for by law.

SEC. 7. The State shall be divided into nine judicial districts, in each of which one circuit judge shall be elected by the qualified electors thereof, who shall hold his office for the term of six years, and until his successor shall be commissioned and qualified: *Provided,* That the general assembly may increase the number of circuits to meet the future exigencies of the State.

SEC. 8. There shall be two or more terms of the circuit court held annually in each county of this State, at such times as shall be provided by law; and said courts shall have jurisdiction in all cases at law and equity, and in all cases of appeals from all inferior courts.

SEC. 9. All vacancies in the supreme and circuit courts shall be filled by the election as aforesaid: *Provided, however,* That if the unexpired term does not exceed one year, such vacancy may be filled by executive appointment.

SEC. 10. The judges of the supreme court shall receive a salary of twelve hundred dollars per annum, payable quarterly, and no more. The judges of the circuit courts shall receive a salary of one thousand dollars per annum, payable quarterly, and no more. The judges of the supreme and circuit courts shall not be eligible to any other office or public trust, of profit, in this State or the United States, during the term for which they are elected, nor for one year thereafter. All votes for either of them for any elective office, (except that of judge of the supreme or circuit courts,) given by the general assembly, or the people, shall be void.

SEC. 11. No person shall be eligible to the office of judge of any court of this State who is not a citizen of the United States, and who shall not have resided in this State five years next preceding his election, and who shall not for two years next preceding his election have resided in the division, circuit, or county in which he shall be elected; nor shall any person be elected judge of the supreme court who shall be, at the time of his election, under the age of thirty-five years; and no person shall be eligible to the office of judge of the circuit court until he shall have attained the age of thirty years.

SEC. 12. For any reasonable cause, to be entered on the journals of each house, which shall not be a sufficient ground for impeachment, both justices of the supreme court and judges of the circuit court shall be removed from office, on the vote of two-thirds of the members elected to each branch of the general assembly: *Provided always,* That no member of either house of the general assembly shall be eligible to fill the vacancy occasioned by such removal: *Provided also,* That no removal shall be made unless the justice or judge complained of shall have been served with a copy of the complaint against him, and shall have an opportunity of being heard in his defence.

SEC. 13. The first election for justices of the supreme court and judges of the circuit courts shall be held on the first Monday of September, 1848.

SEC. 14. The second election for one justice of the supreme court shall be held on the first Monday of June, 1852; and every three years thereafter an election shall be held for one justice of the supreme court.

SEC. 15. On the first Monday of June, 1855, and every sixth year thereafter, an election shall be held for judges of the circuit courts: *Provided,* Whenever an additional circuit is created, such provision may be made as to hold the second election of such additional judge at the regular elections herein provided.

SEC. 16. There shall be in each county a court to be called a county court.

SEC. 17. One county judge shall be elected by the qualified voters of each county, who shall hold his office for four years, and until his successor is elected and qualified.

SEC. 18. The jurisdiction of said court shall extend to all probate and such other jurisdiction as the general assembly may confer in civil cases, and such criminal cases as may be prescribed by law, where the punishment is by fine only, not exceeding one hundred dollars.

SEC. 19. The county judge, with such justices of the peace in each county as may be designated by law, shall hold terms for the transaction of county business, and

shall perform such other duties as the general assembly shall prescribe: *Provided*, The general assembly may require that two justices, to be chosen by the qualified electors of each county, shall sit with the county judge in all cases; and there shall be elected, quadrennially, in each county, a clerk of the county court, who shall be *ex-officio* recorder, whose compensation shall be fees: *Provided*, The general assembly may, by law, make the clerk of the circuit court *ex-officio* recorder, in lieu of the county clerk.

SEC. 20. The general assembly shall provide for the compensation of the county judge.

SEC. 21. The clerks of the supreme and circuit courts, and State's attorneys, shall be elected at the first special election for judges. The second election for clerks of the supreme court shall be held on the first Monday of June, 1855, and every sixth year thereafter. The second election for clerks of the circuit courts and State's attorneys shall be held on Tuesday next after the first Monday of November, 1852, and every fourth year thereafter.

SEC. 22. All judges and State's attorneys shall be commissioned by the governor.

SEC. 23. The election of all officers, and the filling of all vacancies that may happen by death, resignation, or removal, not otherwise directed or provided for by this constitution, shall be made in such a manner as the general assembly shall direct: *Provided*, That no such officer shall be elected by the general assembly.

SEC. 24. The general assembly may authorize the judgments, decrees, and decisions of any local inferior court of record, of original, civil, or criminal jurisdiction, established in a city, to be removed, for revision, directly into the supreme court.

SEC 25. County judges, clerks, sheriffs, and other county officers, for wilful neglect of duty, or misdemeanor in office, shall be liable to presentment or indictment by a grand jury, and trial by a petit jury, and, upon conviction, shall be removed from office.

SEC. 26. All process, writs, and other proceedings shall run in the name of "The people of the State of Illinois." All prosecutions shall be carried on "In the name and by the authority of the people of the State of Illinois," and conclude, "Against the peace and dignity of the same."

SEC. 27. There shall be elected in each county in this State, in such districts as the general assembly may direct, by the qualified electors thereof, a competent number of justices of the peace, who shall hold their offices for the term of four years, and until their successors shall have been elected and qualified, and who shall perform such duties, receive such compensation, and exercise such jurisdiction as may be prescribed by law.

SEC. 28. There shall be elected in each of the judicial circuits of this State, by the qualified electors thereof, one State's attorney, who shall hold his office for the term of four years, and until his successor shall be commissioned and qualified, who shall perform such duties and receive such compensation as may be prescribed by law: *Provided*, That the general assembly may hereafter provide by law for the election, by the qualified voters of each county in this State, of one county attorney for each county, in lieu of the State's attorneys provided for in this section; the term of office, duties, and compensation of which county attorneys shall be regulated by law.

SEC. 29. The qualified electors of each county in this State shall elect a clerk of the circuit court, who shall hold his office for the term of four years, and until his successor shall have been elected and qualified, who shall perform such duties and receive such compensation as may be prescribed by law. The clerks of the supreme court shall be elected, in each division, by the qualified electors thereof, for the term of six years, and until their successors shall have been elected and qualified, whose duties and compensation shall be provided by law.

SEC. 30. The first grand division for the election of judges of the supreme court shall consist of the counties of Alexander, Pulaski, Massac, Pope, Hardin, Gallatin, Saline, Williamson, Johnson, Union, Jackson, Randolph, Perry, Franklin, Hamilton, White, Wabash, Edwards, Wayne, Jefferson, Washington, Monroe, Saint Clair, Clinton, Marion, Clay, Richland, Lawrence, Crawford, Jasper, Effingham, Fayette, Bond, Madison, Jersey, and Calhoun.

The second grand division shall consist of the counties of Edgar, Coles, Moultrie, Shelby, Montgomery, Macoupin, Greene, Pike, Adams, Highland, Hancock, McDonough, Schuyler, Brown, Fulton, Mason, Cass, Morgan, Scott, Sangamon, Christian, Macon, Piatt, Champaign, Vermillion, De Witt, Logan, Menard, Cumberland, and Clark.*

The third grand division shall consist of the counties of Henderson, Warren, Knox, Peoria, Tazewell, Woodford, McLean, Livingston, Iroquois, Will, Grundy, Kendall, La Salle, Putnam, Marshall, Stark, Bureau, Henry, Mercer, Rock Island, Whitesides, Lee, Carroll, Jo Daviess, Stephenson, Winnebago, Ogle, De Kalb, Boone, Kane, McHenry, Lake, Cook, and Du Page.

SEC. 31. The terms of the supreme court for the first division shall be held at Mount Vernon, in Jefferson County; for the second division, at Springfield, in Sangamon County; for the third division, at Ottawa, in La Salle County; until some other place in either division is fixed by law.

SEC. 32. Appeals and writs of error may be taken from the circuit court of any county to the supreme court held in the division which includes such county, or, with the consent of all the parties in the cause, to the supreme court in the next adjoining division.

SEC. 33. The foregoing districts may, after the taking of each census by the State, be altered, if necessary, to equalize the said districts in population; but such alteration shall be made by adding to such district such adjacent county or counties as will make said district nearest equal in population: *Provided*, No such alteration shall affect the office of any judge then in office.

ARTICLE VI.

ON ELECTIONS AND THE RIGHT OF SUFFRAGE.

SECTION 1. In all elections every white male citizen above the age of twenty-one years, having resided in the State one year next preceding any election, shall be entitled to vote at such election; and every white male inhabitant of the age aforesaid who may be a resident of the State at the time of the adoption of this constitution shall have the right of voting as aforesaid; but no such citizen or inhabitant shall be entitled to vote except in the district or county in which he shall actually reside at the time of such election.

SEC. 2. All votes shall be given by ballot.

SEC. 3. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

SEC. 4. No elector shall be obliged to do militia duty on the days of election, except in time of war or public danger.

SEC. 5. No elector shall be deemed to have lost his residence in this State by reason of his absence on the business of the United States or of this State.

SEC. 6. No soldier, seaman, or marine, in the Army or Navy of the United States, shall be deemed a resident of this State in consequence of being stationed at any military or naval place within the same.

SEC. 7. No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next before the election or appointment.

SEC. 8. The general assembly shall have full power to pass laws excluding from the right of suffrage persons convicted of infamous crimes.

SEC. 9. The general elections shall be held on the Tuesday next after the first Monday of November, biennially, until otherwise provided by law.

ARTICLE VII.

OF COUNTIES.

SECTION 1. No new county shall be formed or established by the general assembly, which will reduce the county or counties, or either of them, from which it shall be

* McLean County was added to the second division by the act of February 16, 1865.

taken, to less contents than four hundred square miles; nor shall any county be formed of less contents; nor shall any line thereof pass within less than ten miles of any county-seat of the county or counties proposed to be divided.

SEC. 2. No county shall be divided, or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

SEC. 3. All territory which has been or may be stricken off, by legislative enactment, from any organized county or counties, for the purpose of forming a new county, and which shall remain unorganized after the period provided for such organization, shall be and remain a part of the county or counties from which it was originally taken, for all purposes of county and State government, until otherwise provided by law.

SEC. 4. There shall be no territory stricken from any county unless a majority of the voters living in such territory shall petition for such division; and no territory shall be added to any county without the consent of a majority of the voters of the county to which it is proposed to be added.

SEC. 5. No county-seat shall be removed until the point to which it is proposed to be removed shall be fixed by law, and a majority of the voters of the county shall have voted in favor of its removal to such point.

SEC. 6. The general assembly shall provide, by a general law, for a township organization, under which any county may organize whenever a majority of the voters of such county, at any general election, shall so determine; and whenever any county shall adopt a township organization, so much of this constitution as provides for the management of the fiscal concerns of the said county by the county court may be dispensed with, and the affairs of said county may be transacted in such manner as the general assembly may provide.

SEC. 7. There shall be elected in each county in this State, by the qualified electors thereof, a sheriff, who shall hold his office for the term of two years, and until his successor shall have been elected and qualified: *Provided*, No person shall be eligible to the said office more than once in four years.

ARTICLE VIII.

MILITIA.

SECTION 1. The militia of the State of Illinois shall consist of all free male able-bodied persons (negroes, mulattoes, and Indians excepted) resident of the State, between the ages of eighteen and forty-five years, except such persons as now are or hereafter may be exempted by the laws of the United States or of this State, and shall be armed, equipped, and trained as the general assembly may provide by law.

SEC. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace, provided such person or persons shall pay an equivalent for such exemption.

SEC. 3. Company, battalion, and regimental officers, staff-officers excepted, shall be elected by the persons composing their several companies, battalions, and regiments.

SEC. 4. Brigadier and major generals shall be elected by the officers of their brigades and divisions, respectively.

SEC. 5. All militia officers shall be commissioned by the governor, and may hold their commissions for such time as the legislature may provide.

SEC. 6. The militia shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at musters and election of officers, and in going to and returning from the same.

ARTICLE IX.

OF THE REVENUE.

SECTION 1. The general assembly may, whenever they shall deem it necessary, cause to be collected from all able-bodied free white male inhabitants of this State, over the age of twenty-one years and under the age of sixty years, who are entitled to the

right of suffrage, a capitation-tax of not less than fifty cents nor more than one dollar each.

SEC. 2. The general assembly shall provide for levying a tax by valuation, so that every person and corporation shall pay a tax in proportion to the value of his or her property; such value to be ascertained by some person or persons to be elected or appointed in such manner as the general assembly shall direct, and not otherwise; but the general assembly shall have power to tax pedlers, auctioneers, brokers, hawkers, merchants, commission-merchants, show-men, jugglers, innkeepers, grocery-keepers, toll bridges and ferries, and persons using and exercising franchises and privileges in such manner as they shall from time to time direct.

SEC. 3. The property of the State and counties, both real and personal, and such other property as the general assembly may deem necessary for school, religious, and charitable purposes, may be exempted from taxation.

SEC. 4. Hereafter no purchaser of any land or town-lot, at any sale of lands or town-lots, for taxes due either to this State, or any county, or incorporated town or city within the same; or at any sale for taxes or levies authorized by the laws of this State, shall be entitled to a deed for the lands or town-lots so purchased until he or she shall have complied with the following conditions, to wit: Such purchaser shall serve, or cause to be served, a written notice of such purchase on every person in possession of such land or town-lot, three months before the expiration of the time of redemption on such sale; in which notice he shall state when he purchased the land or town-lot, the description of the land or lot he has purchased, and when the time of redemption will expire. In like manner he shall serve on the person or persons in whose name or names such land or lot is taxed a similar written notice, if such person or persons shall reside in the county where such land or lot shall be situated; and in the event that the person or persons in whose name or names the land or lot is taxed do not reside in the county, such purchaser shall publish such notice in some newspaper printed in such county; and if no newspaper is printed in the county, then in the nearest newspaper that is published in this State to the county in which such lot or land is situated; which notice shall be inserted three times, the last time not less than three months before the time of redemption shall expire. Every such purchaser, by himself or agent, shall, before he shall be entitled to a deed, make an affidavit of having complied with the conditions of this section, stating particularly the facts relied on as such compliance; which affidavit shall be delivered to the person authorized by law to execute such tax-deed, and which shall by him be filed with the officer having custody of the records of lands and lots sold for taxes, and entries of redemption in the county where such land or lot shall lie, to be by such officer entered on the records of his office and carefully preserved among the files of his office; and which record or affidavit shall be *prima-facie* evidence that such notice has been given. Any person swearing falsely in such affidavit shall be deemed guilty of perjury, and punished accordingly. In case any person shall be compelled under this section to publish a notice in a newspaper, then, before any person who may have a right to redeem such land or lot from tax-sale shall be permitted to redeem, he or she shall pay the officer or person who by law is authorized to receive such redemption-money, the printer's fee for publishing such notice, and the expenses of swearing or affirming to the affidavit, and filing the same.

SEC. 5. The corporate authorities of counties, townships, school districts, cities, towns, and villages may be vested with power to assess and collect taxes for corporate purposes; such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the same. And the general assembly shall require that all the property within the limits of municipal corporations belonging to individuals shall be taxed for the payment of debts contracted under authority of law.

SEC. 6. The specifications of the objects and subjects of taxation shall not deprive the general assembly of the power to require other objects or subjects to be taxed in such manner as may be consistent with the principles of taxation fixed in this constitution.

ARTICLE X.

CORPORATIONS.

SECTION 1. Corporations, not possessing banking powers or privileges, may be formed under general laws, but shall not be created by special acts, except for municipal purposes, and in cases where, in the judgment of the general assembly, the objects of the corporation cannot be attained under general laws.

SEC. 2. Dues from corporations, not possessing banking powers or privileges, shall be secured by such individual liabilities of the corporators, or other means, as may be prescribed by law.

SEC. 3. No State bank shall hereafter be created, nor shall the State own or be liable for any stock in any corporation or joint-stock association for banking purposes, to be hereafter created.

SEC. 4. The stockholders in every corporation, or joint-stock association for banking purposes, issuing bank-notes, or any kind of paper credits to circulate as money, shall be individually responsible, to the amount of their respective share or shares of stock in any such corporation or association, for all its debts and liabilities of every kind.

SEC. 5. No act of the general assembly, authorizing corporations or associations with banking powers, shall go into effect, or in any manner be in force, unless the same shall be submitted to the people at the general election next succeeding the passage of the same, and be approved by a majority of all the votes cast at such election for and against such law.

SEC. 6. The general assembly shall encourage internal improvements, by passing liberal laws of incorporation for that purpose.

ARTICLE XI.

COMMONS.

All lands which have been granted, as a "common," to the inhabitants of any town, hamlet, village, or corporation, by any person, body politic or corporate, or by any government having power to make such grant, shall forever remain common to the inhabitants of such town, hamlet, village, or corporation; but the said commons, or any of them, or any part thereof, may be divided, leased, or granted, in such manner as may hereafter be provided by law, on petition of a majority of the qualified voters interested in such common, or any of them.

ARTICLE XII.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Whenever two-thirds of all the members elected to each branch of the general assembly shall think it necessary to alter or amend this constitution, they shall recommend to the electors at the next election of members of the general assembly, to vote for or against a convention; and if it shall appear that a majority of all the electors of the State voting for representatives have voted for a convention, the general assembly shall, at their next session, call a convention to consist of as many members as the house of representatives at the time of making said call, to be chosen in the same manner, at the same place, and by the same electors, in the same districts that chose the members of the house of representatives; and which convention shall meet within three months after the said election, for the purpose of revising, altering, or amending this constitution.

SEC. 2. Any amendment or amendments to this constitution may be proposed in either branch of the general assembly; and if the same shall be agreed to by two-thirds of all the members-elect in each of the two houses, such proposed amendment or amendments shall be referred to the next regular session of the general assembly, and shall be published at least three months previous to the time of holding the next

election for members of the house of representatives; and if, at the next regular session of the general assembly after said election, a majority of all the members-elect in each branch of the general assembly shall agree to said amendment or amendments, then it shall be their duty to submit the same to the people at the next general election for their adoption or rejection, in such manner as may be prescribed by law; and if a majority of all the electors voting at such election for members of the house of representatives shall vote for such amendment or amendments, the same shall become a part of the constitution. But the general assembly shall not have power to propose an amendment or amendments to more than one article of the constitution at the same session.

ARTICLE XIII.

DECLARATION OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and unalterably established, we declare:

SECTION 1. That all men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, and of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness.

SEC. 2. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious establishments or modes of worship.

SEC. 4. That no religious test shall ever be required as a qualification to any office of public trust under this State.

SEC. 5. That all elections shall be free and equal.

SEC. 6. That the right of trial by jury shall remain inviolate; and shall extend to all cases at law, without regard to the amount in controversy.

SEC. 7. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

SEC. 8. That no freeman shall be imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the judgment of his peers, or the law of the land.

SEC. 9. That in all criminal prosecutions the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his favor; and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the county or district wherein the offence shall be committed, which county or district shall have been previously ascertained by law; and that he shall not be compelled to give evidence against himself.

SEC. 10. No person shall be held to answer for a criminal offence unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or navy, or in the militia when in actual service in time of war or public danger: *Provided*, That justices of the peace shall try no person, except as a court of inquiry, for any offence punishable with imprisonment or death, or fine above one hundred dollars.

SEC. 11. No person shall, for the same offence, be twice put in jeopardy of his life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives in the general assembly, nor without just compensation being made to him.

SEC. 12. Every person within this State ought to find a certain remedy in the laws

for all injuries or wrongs which he may receive in his person, property, or character; he ought to obtain right and justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws.

SEC. 13. That all persons shall be bailable by sufficient sureties, unless for capital offences where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SEC. 14. All penalties shall be proportioned to the nature of the offence; the true design of all punishment being to reform, not to exterminate, mankind.

SEC. 15. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law, or in cases where there is strong presumption of fraud.

SEC. 16. There shall be neither slavery nor involuntary servitude in this State, except as a punishment for crime whereof the party shall have been duly convicted.

SEC. 17. No *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be made; and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 18. That no person shall be liable to be transported out of this State for any offence committed within the same.

SEC. 19. That a frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

SEC. 20. The military shall be in strict subordination to the civil power.

SEC. 21. That the people have a right to assemble together in a peaceable manner to consult for their common good, to instruct their representatives, and to apply to the general assembly for redress of grievances.

SEC. 22. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in manner prescribed by law.

SEC. 23. The printing-presses shall be free to every person who undertakes to examine the proceedings of the general assembly, or any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

SEC. 24. In prosecutions for the publication of papers investigating the official conduct of officers, or of men acting in a public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have the right of determining both the law and the fact, under the direction of the court, as in other cases.

SEC. 25. Any person who shall, after the adoption of this constitution, fight a duel, or send or accept a challenge for that purpose, or be aider or abettor in fighting a duel, shall be deprived of the right of holding any office of honor or profit in this State, and shall be punished otherwise in such manner as is or may be prescribed by law.

SEC. 26. That from and after the adoption of this constitution every person who shall be elected or appointed to any office of profit, trust, or emolument, civil or military, legislative, executive, or judicial, under the government of this State, shall, before he enters upon the duties of his office, in addition to the oath prescribed in this constitution, take the following oath: "I do solemnly swear [or affirm, as the case may be] that I have not fought a duel, nor sent or accepted a challenge to fight a duel, the probable issue of which might have been the death of either party, nor been a second to either party, nor in any manner aided or assisted in such duel, nor been knowingly the bearer of such challenge or acceptance, since the adoption of the constitution; and that I will not be so engaged or concerned, directly or indirectly, in or about any such duel, during my continuance in office; so help me God."

ARTICLE XIV.

PERSONS OF COLOR

The general assembly shall, at its first session under the amended constitution, pass such laws as will effectually prohibit free persons of color from immigrating to and

settling in this State; and to effectually prevent the owners of slaves from bringing them into this State, for the purpose of setting them free.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments made in the constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared:

SECTION 1. That all laws in force at the adoption of this constitution, not inconsistent therewith, and all rights, actions, prosecutions, claims, and contracts of this State, individuals or bodies-corporate, shall continue, and be as valid as if this constitution had not been adopted.

SEC. 2. That all fines, penalties, and forfeitures due and owing to the State of Illinois under the present constitution and laws shall inure to the use of the people of the State of Illinois under this constitution.

SEC. 3. Recognizances, bonds, obligations, and all other instruments entered into or executed, before the adoption of this constitution, to the people of the State of Illinois, to any State or county officer or public body, shall remain binding and valid, and rights and liabilities upon the same shall continue, and all crimes and misdemeanors shall be tried and punished as though no change had been made in the constitution of the State.

SEC. 4. That "Article XI," entitled "Commons," is hereby adopted as a part of the constitution of this State, without being submitted to be voted upon by the people.

SEC. 5. That at the first election fixed by this constitution for the election of judges, there shall be elected one circuit judge in each of the nine judicial circuits now established in this State.

SEC. 6. The county commissioners' courts and the probate justices of the several counties shall continue in existence and exercise their present jurisdiction until the county court, provided in this constitution, is organized in pursuance of an act of the general assembly to be passed at its first session.

SEC. 7. That the clerk of the circuit court, in each county fixed by this constitution as the place for holding the supreme court, except in the county of Sangamon, shall be *ex-officio* clerk of the supreme court, until the clerks of said court shall be elected and qualified, as provided in this constitution, and all laws now in force, in relation to the clerk of the supreme court, shall be applicable to said clerks and their duties.

SEC. 8. That the sheriffs, State attorneys, and all other officers elected under this constitution, shall perform such duties as shall be prescribed by law.

SEC. 9. That the oaths of office herein required to be taken may be administered by a justice of the peace until otherwise provided by law.

SEC. 10. That this constitution shall be submitted to the people for their adoption or rejection at an election to be held on the first Monday in March, A. D. 1848, and there shall also be submitted for adoption or rejection, at the same time, the separate articles in relation to the emigration of colored persons and the public debt.

SEC. 11. That every person entitled to vote for members of the general assembly, by the constitution and laws now in force, shall on the first Monday in March, A. D. 1848, be entitled to vote for the adoption or rejection of this constitution, and for and against the aforesaid articles separately submitted, and the said qualified electors shall vote in the counties in which they respectively reside, at the usual places of voting, and not elsewhere; and the said election shall be conducted according to the laws now in force in relation to the election of governor, so far as applicable, except as herein otherwise provided.

SEC. 12. [As this section merely gave the form of poll-book to be used when the constitution was submitted to the people, it is omitted, the event having passed.]

SEC. 13. That the returns of the votes for the adoption or rejection of this constitution, and for and against the separate articles submitted, shall be made to the secretary of state within fifty days after the election, and the returns of the votes shall, within five days thereafter, be examined and canvassed by the auditor, treasurer, and

secretary of state, or any two of them, in the presence of the governor, and proclamation shall be made by the governor forthwith of the result of the polls. If it shall appear that a majority of all the votes polled are for the adoption of this constitution, it shall be the supreme law of the land, from and after the first day of April, A. D. 1848; but if it shall appear that a majority of the votes polled were given against the constitution, the same shall be null and void. If it shall further appear that a majority of the votes polled shall have been given for the separate article in relation to colored persons, or the article for the two-mill tax, then said article or articles shall be and form a part of this constitution, otherwise said article or articles shall be null and void.

SEC. 14. That if this constitution shall be ratified by the people, the governor shall forthwith, after having ascertained the fact, issue writs of election to the sheriffs of the several counties in this State, or, in case of vacancy, to the coroners, for the election of all the officers, the time of whose election is fixed by this constitution or schedule; and it shall be the duty of said sheriffs or coroners to give at least twenty days' notice of the time and place of said election, in the manner now provided by law.

SEC. 15. The general assembly shall, at its first session after the adoption of this constitution, provide by law for the mode of voting by ballot, and also for the manner of returning, canvassing, and certifying the number of votes cast at any election; and until said law shall be passed, all elections shall be *viva voce*, and the laws now in force regulating elections shall continue in force until the general assembly shall provide otherwise, as herein directed.

SEC. 16. That the first general election of governor, secretary of state, auditor, treasurer, and members of the general assembly, and of such other officers as are to be elected at the same time, shall be held on the first Monday of August, eighteen hundred and forty-eight, anything in this constitution to the contrary notwithstanding. County officers then elected shall hold their respective offices until their successors are elected or appointed, in conformity with laws hereinafter enacted.

SEC. 17. That returns of the election of justices of the supreme and judges of the circuit courts, secretary of state, auditor, and treasurer, shall be made and canvassed as is now provided by law for Representatives in Congress; and returns for members of the general assembly and county officers shall be made and canvassed as is now provided by law.

SEC. 18. That all laws of the State of Illinois, and all official writings, and the executive, legislative, and judicial proceedings, shall be conducted, preserved, and published in no other than the English language.

SEC. 19. On the first Monday in December, one thousand eight hundred and forty-eight, the term of office of judges of the supreme court, State's attorneys, and of the clerks of the supreme and circuit courts, shall expire; and on said day the term of office of the judges, State's attorneys, and clerks elected under the provisions of this constitution shall commence. The judges of the supreme court, elected as aforesaid, shall have and exercise the powers and jurisdiction conferred upon the present judges of that court; and the said judges of the circuit courts shall have and exercise the powers and jurisdiction conferred upon the judges of those courts, subject to the provisions of this constitution.

SEC. 20. On the first Monday in December, one thousand eight hundred and forty-eight, jurisdiction of all suits and proceedings then pending in the present supreme court shall become vested in the supreme court established by this constitution, and shall be finally adjudicated by the court where the same may be pending. The jurisdiction of all suits and proceedings then pending in the circuit courts of the several counties shall be vested in the circuit courts of said counties.

SEC. 21. The Cook and Jo Daviess County courts shall continue to exist, and the judge and other officers of the same remain in office, until otherwise provided by law.

SEC. 22. Until otherwise provided by law, the terms of the supreme court shall be held as follows: In the first division, on the first Monday of December, A. D. 1848, and annually thereafter; in the second division, on the third Monday of December, A. D. 1848, and annually thereafter; in the third division, on the first Monday of February, A. D. 1849, and annually thereafter. The sheriffs of Jefferson and La

Salle Counties shall perform the same duties and receive the same compensation as is required and provided for the sheriff of Sangamon County, until otherwise provided by law.

SEC. 23. Nothing in this constitution shall prevent the general assembly from passing such laws in relation to the apprenticeship of minors, during their minority, as may be necessary and proper.

SEC. 24. That the general assembly shall pass all laws necessary to carry into effect the provisions of this constitution.

SEC. 25. Elections of judges of the supreme and circuit courts shall be subject to be contested.

SEC. 26. Contested elections of judges of the supreme court shall be tried by the senate, and of judges of the circuit court by the supreme court, and the general assembly shall prescribe the manner of proceeding therein.

Done in convention, at the capitol, in the city of Springfield, on the thirty-first day of August, in the year of our Lord one thousand eight hundred and forty-seven, and of the Independence of the United States of America the seventy-second.

NEWTON CLOUD, *President.*

HENRY W. MOORE, *Secretary.*
HARMAN G. REYNOLDS, *Assistant Secretary.*

AMENDMENT TO THE CONSTITUTION OF 1848.

RATIFIED 1851.

ART. XV. There shall be annually assessed and collected, in the same manner as other State revenue may be assessed and collected, a tax of two mills upon each dollar's worth of taxable property, in addition to all other taxes, to be applied as follows, to wit: The fund so created shall be kept separate, and shall annually, on the first day of January, be apportioned and paid over, *pro rata*, upon all such State indebtedness, other than the canal and school indebtedness, as may, for that purpose, be presented by the holders of the same, to be entered as credits upon, and, to that intent, in extinguishment of the principal of said indebtedness.

CONSTITUTION OF ILLINOIS—1870.*

PREAMBLE.

We, the people of the State of Illinois, grateful to Almighty God for the civil, political, and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations, in order to form a more perfect government, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the State of Illinois.

ARTICLE I.

BOUNDARIES.

The boundaries and jurisdiction of the State shall be as follows, to wit: Beginning at the mouth of the Wabash River; thence up the same, and with the line of Indiana, to the northwest corner of said State; thence east, with the line of the same State, to the middle of Lake Michigan; thence north along the middle of said lake, to north latitude forty-two degrees and thirty minutes; thence west to the middle of

* Adopted in convention May 13, 1870, and ratified by the people July 2, 1870, receiving 154,227 votes against 35,443 votes.

the Mississippi River, and thence down along the middle of that river to its confluence with the Ohio River, and thence up the latter river, along its northwestern shore, to the place of beginning: *Provided*, That this State shall exercise such jurisdiction upon the Ohio River as she is now entitled to, or such as may hereafter be agreed upon by this State and the State of Kentucky.

ARTICLE II.

BILL OF RIGHTS.

SECTION 1. All men are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, and the pursuit of happiness. To secure these rights and the protection of property, governments are instituted among men, deriving their just powers from the consent of the governed.

SEC. 2. No person shall be deprived of life, liberty, or property without due process of law.

SEC. 3. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed; and no person shall be denied any civil or political right, privilege, or capacity on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the State. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship.

SEC. 4. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defence.

SEC. 5. The right of trial by jury, as heretofore enjoyed, shall remain inviolate; but the trial of civil cases before justices of the peace by a jury of less than twelve men may be authorized by law.

SEC. 6. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue without probable cause, supported by affidavit, particularly describing the place to be searched and the persons or things to be seized.

SEC. 7. All persons shall be bailable by sufficient sureties, except for capital offences, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SEC. 8. No person shall be held to answer for a criminal offence unless on indictment of a grand jury, except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia when in actual service in time of war or public danger: *Provided*, That the grand jury may be abolished by law in all cases.

SEC. 9. In all criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation, and to have a copy thereof; to meet the witnesses face to face, and to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed.

SEC. 10. No person shall be compelled in any criminal case to give evidence against himself, or be twice put in jeopardy for the same offence.

SEC. 11. All penalties shall be proportioned to the nature of the offence; and no conviction shall work corruption of blood or forfeiture of estate; nor shall any person be transported out of the State for any offence committed within the same.

SEC. 12. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law; or in cases where there is strong presumption of fraud.

SEC. 13. Private property shall not be taken or damaged for public use without just compensation. Such compensation, when not made by the State, shall be ascertained by a jury, as shall be prescribed by law. The fee of land taken for railroad tracks, without consent of the owners thereof, shall remain in such owners, subject to the use for which it is taken.

SEC. 14. No *ex post facto* law, or law impairing the obligation of contracts, or making any irrevocable grant of special privileges or immunities, shall be passed.

SEC. 15. The military shall be in strict subordination to the civil power.

SEC. 16. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war except in the manner prescribed by law.

SEC. 17. The people have the right to assemble in a peaceable manner to consult for the common good, to make known their opinions to their representatives, and to apply for redress of grievances.

SEC. 18. All elections shall be free and equal.

SEC. 19. Every person ought to find a certain remedy in the laws for all injuries and wrongs which he may receive in his person, property, or reputation; he ought to obtain, by law, right and justice freely and without being obliged to purchase it, completely and without denial, promptly and without delay.

SEC. 20. A frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

ARTICLE III.

DISTRIBUTION OF POWERS.

The powers of the government of this State are divided into three distinct departments, the legislative, executive, and judicial; and no person, or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power shall be vested in a general assembly, which shall consist of a senate and house of representatives, both to be elected by the people.

SEC. 2. An election for members of the general assembly shall be held on the Tuesday next after the first Monday in November, in the year of our Lord 1870, and every two years thereafter, in each county, at such places therein as may be provided by law. When vacancies occur in either house, the governor, or person exercising the powers of governor, shall issue writs of election to fill such vacancies.

SEC. 3. No person shall be a senator who shall not have attained the age of twenty-five years, or a representative who shall not have attained the age of twenty-one years. No person shall be a senator or representative who shall not be a citizen of the United States, and who shall not have been for five years a resident of this State, and for two years next preceding his election a resident within the territory forming the district from which he is elected. No judge or clerk of any court, secretary of state, attorney-general, State's attorney, recorder, sheriff, or collector of public revenue, member of either House of Congress, or person holding any lucrative office under the United States or this State, or any foreign government, shall have a seat in the general assembly: *Provided*, That appointments in the militia, and the offices of notary public and justice of the peace, shall not be considered lucrative. Nor shall any person holding any office of honor or profit under any foreign government, or under the Government of the United States, (except postmasters whose annual compensation does not exceed the sum of $300,) hold any office of honor or profit under the authority of this State.

SEC. 4. No person who has been, or hereafter shall be, convicted of bribery, perjury, or other infamous crime, nor any person who has been or may be a collector or holder of public moneys, who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the general assembly, or to any office of profit or trust in this State.

SEC. 5. Members of the general assembly, before they enter upon their official duties, shall take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of the State of Illinois, and will faithfully discharge the duties of senator (or representative) according to the best of my ability; and that I have not, knowingly or intentionally, paid or contributed anything, or made any promise in the nature of a bribe, to directly or indirectly influence any vote at the election at which I was chosen to fill the said office, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing, from any corporation, company, or person, for any vote or influence I may give or withhold on any bill, resolution, or appropriation, or for any other official act."

This oath shall be administered by a judge of the supreme or circuit court in the hall of the house to which the member is elected, and the secretary of state shall record and file the oath subscribed by each member. Any member who shall refuse to take the oath herein prescribed shall forfeit his office, and every member who shall be convicted of having sworn falsely to or of violating his said oath shall forfeit his office and be disqualified thereafter from holding any office of profit or trust in this State.

SEC. 6. The general assembly shall apportion the State every ten years, beginning with the year 1871, by dividing the population of the State, as ascertained by the Federal census, by the number 51, and the quotient shall be the ratio of representation in the senate. The State shall be divided into fifty-one senatorial districts, each of which shall elect one senator, whose term of office shall be four years. The senators elected in the year of our Lord 1872, in districts bearing odd numbers, shall vacate their offices at the end of two years, and those elected in districts bearing even numbers, at the end of four years; and vacancies occurring by the expiration of term shall be filled by the election of senators for the full term. Senatorial districts shall be formed of contiguous and compact territory, bounded by county lines, and contain as nearly as practicable an equal number of inhabitants; but no district shall contain less than four-fifths of the senatorial ratio. Counties containing not less than the ratio and three-fourths may be divided into separate districts, and shall be entitled to two senators, and to one additional senator for each number of inhabitants equal to the ratio contained by such counties in excess of twice the number of said ratio.

NOTE.—By the adoption of minority representation, sections seven and eight of this article cease to be a part of the constitution; but since the apportionment of representatives for 1870 is governed by their provisions, the reader will find them in a note at the end. Under section twelve of the schedule, and the vote of adoption, the following section relating to minority representation is substituted for said sections:

SECS. 7 and 8. The house of representatives shall consist of three times the number of the members of the senate, and the term of office shall be two years. Three representatives shall be elected in each senatorial district at the general election in the year A. D. 1872, and every two years thereafter. In all elections of representatives aforesaid each qualified voter may cast as many votes for one candidate as there are representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates, as he shall see fit; and the candidates highest in votes shall be declared elected.

SEC. 9. The sessions of the general assembly shall commence at twelve o'clock noon on the Wednesday next after the first Monday in January in the year next ensuing the election of members thereof, and at no other time, unless as provided by this constitution. A majority of the members elected to each house shall constitute a quorum. Each house shall determine the rules of its proceedings, and be the judge of the election, returns, and qualifications of its members; shall choose its own officers; and the senate shall choose a temporary president to preside when the lieutenant-governor shall not attend as president or shall act as governor. The secretary of state shall call the house of representatives to order at the opening of each new assembly, and preside over it until a temporary presiding officer thereof shall have been chosen and shall have taken his seat. No member shall be expelled by either house except by a vote of two-thirds of all the members elected to that house, and no member shall be

twice expelled for the same offence. Each house may punish by imprisonment any person not a member who shall be guilty of disrespect to the house by disorderly or contemptuous behavior in its presence; but no such imprisonment shall extend beyond twenty-four hours at one time, unless the person shall persist in such disorderly or contemptuous behavior.

SEC. 10. The doors of each house and of committees of the whole shall be kept open, except in such cases as, in the opinion of the house, require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, or to any other place than that in which the two houses shall be sitting. Each house shall keep a journal of its proceedings, which shall be published. In the senate, at the request of two members, and in the house, at the request of five members, the yeas and nays shall be taken on any question and entered upon the journal. Any two members of either house shall have liberty to dissent from and protest, in respectful language, against any act or resolution which they think injurious to the public or to any individual, and have the reasons of their dissent entered upon the journals.

SEC. 11. The style of the laws of this State shall be: "*Be it enacted by the people of the State of Illinois, represented in the general assembly.*"

SEC. 12. Bills may originate in either house, but may be altered, amended, or rejected by the other; and on the final passage of all bills the vote shall be by yeas and nays, upon each bill separately, and shall be entered upon the journal; and no bill shall become a law without the concurrence of a majority of the members elected to each house.

SEC. 13. Every bill shall be read at large on three different days in each house; and the bill, and all amendments thereto, shall be printed before the vote is taken on its final passage; and every bill, having passed both houses, shall be signed by the speakers thereof. No act hereafter passed shall embrace more than one subject, and that shall be expressed in the title; but if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed; and no law shall be revived or amended by reference to its title only, but the law revived, or the section amended, shall be inserted at length in the new act. And no act of the general assembly shall take effect until the first day of July next after its passage, unless, in case of emergency, (which emergency shall be expressed in the preamble or body of the act,) the general assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct.

SEC. 14. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 15. No person elected to the general assembly shall receive any civil appointment within this State from the governor, the governor and senate, or from the general assembly, during the term for which he shall have been elected; and all such appointments, and all votes given for any such members for any such office or appointment, shall be void; nor shall any members of the general assembly be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he shall have been elected, or within one year after the expiration thereof.

SEC. 16. The general assembly shall make no appropriation of money out of the treasury in any private law. Bills making appropriations for the pay of members and officers of the general assembly, and for the salaries of the officers of the government, shall contain no provision on any other subject.

SEC. 17. No money shall be drawn from the treasury except in pursuance of an appropriation made by law, and on the presentation of a warrant issued by the auditor thereon; and no money shall be diverted from any appropriation made for any purpose, or taken from any fund whatever, either by joint or separate resolution. The auditor shall, within sixty days after the adjournment of each session of the general assembly, prepare and publish a full statement of all money expended at such session, specifying the amount of each item, and to whom and for what paid.

SEC. 18. Each general assembly shall provide for all the appropriations necessary

for the ordinary and contingent expenses of the government until the expiration of the first fiscal quarter after the adjournment of the next regular session, the aggregate amount of which shall not be increased without a vote of two-thirds of the members elected to each house, nor exceed the amount of revenue authorized by law to be raised in such time; and all appropriations, general or special, requiring money to be paid out of the State treasury from funds belonging to the State shall end with such fiscal quarter: *Provided*, The State may, to meet casual deficits or failures in revenues, contract debts, never to exceed in the aggregate $250,000; and moneys thus borrowed shall be applied to the purpose for which they were obtained, or to pay the debt thus created, and to no other purpose; and no other debt, except for the purpose of repelling invasion, suppressing insurrection, or defending the State in war, (for payment of which the faith of the State shall be pledged,) shall be contracted, unless the law authorizing the same shall, at a general election, have been submitted to the people, and have received a majority of the votes cast for members of the general assembly at such election. The general assembly shall provide for the publication of said law for three months at least before the vote of the people shall be taken upon the same; and provision shall be made at the time for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose, or from other sources of revenue; which law, providing for the payment of such interest by such tax, shall be irrepealable until such debt be paid: *And provided further*, That the law levying the tax shall be submitted to the people with the law authorizing the debt to be contracted.

SEC. 19. The general assembly shall never grant or authorize extra compensation, fee, or allowance to any public officer, agent, servant, or contractor, after service has been rendered or a contract made, nor authorize the payment of any claim, or part thereof, hereafter created against the State under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void: *Provided*, The general assembly may make appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

SEC. 20. The State shall never pay, assume, or become responsible for the debts or liabilities of, or in any manner give, loan, or extend its credit to or in aid of, any public or other corporation, association, or individual.

SEC. 21. The members of the general assembly shall receive for their services the sum of five dollars per day during the first session held under this constitution, and ten cents for each mile necessarily traveled in going to and returning from the seat of government, to be computed by the auditor of public accounts; and thereafter such compensation as shall be prescribed by law, and no other allowance or emolument, directly or indirectly, for any purpose whatever, except the sum of fifty dollars per session to each member, which shall be in full for postage, stationery, newspapers, and all other incidental expenses and perquisites; but no change shall be made in the compensation of members of the general assembly during the term for which they may have been elected. The pay and mileage allowed to each member of the general assembly shall be certified by the speakers of their respective houses and entered on the journals, and published at the close of each session.

SEC. 22. The general assembly shall not pass local or special laws in any of the following-enumerated cases; that is to say, for—

Granting divorces;

Changing the names of persons or places;

Laying out, opening, altering, and working roads or highways;

Vacating roads, town-plats, streets, alleys, and public grounds;

Locating or changing county-seats;

Regulating county and township affairs;

Regulating the practice in courts of justice;

Regulating the jurisdiction and duties of justices of the peace, police-magistrates, and constables;

Providing for changes of venue in civil and criminal cases;

Incorporating cities, towns, or villages, or changing or amending the charter of any town, city, or village;

Providing for the election of members of the board of supervisors in townships, incorporated towns or cities;

Summoning and impanelling grand or petit juries;

Providing for the management of common schools;

Regulating the rate of interest on money;

The opening and conducting of any election, or designating the place of voting;

The sale or mortgage of real estate belonging to minors or others under disability;

The protection of game or fish;

Chartering or licensing ferries or toll-bridges;

Remitting fines, penalties, or forfeitures;

Creating, increasing, or decreasing fees, percentage, or allowances of public officers, during the term for which said officers are elected or appointed;

Changing the law of descent;

Granting to any corporation, association, or individual the right to lay down railroad-tracks, or amending existing charters for such purpose;

Granting to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise whatever.

In all other cases, where a general law can be made applicable, no special law shall be enacted.

SEC. 23. The general assembly shall have no power to release or extinguish, in whole or in part, the indebtedness, liability, or obligation of any corporation or individual to this State, or to any municipal corporation therein.

SEC. 24. The house of representatives shall have the sole power of impeachment; but a majority of all the members elected must concur therein. All impeachments shall be tried by the senate; and, when sitting for that purpose, the senators shall be upon oath, or affirmation, to do justice according to law and evidence. When the governor of the State is tried the chief-justice shall preside. No person shall be convicted without the concurrence of two-thirds of the senators elected. But judgment, in such cases, shall not extend further than removal from office, and disqualification to hold any office of honor, profit, or trust under the government of this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment, and punishment according to law.

SEC. 25. The general assembly shall provide, by law, that the fuel, stationery, and printing-paper furnished for the use of the State; the copying, printing, binding, and distributing the laws and journals, and all other printing ordered by the general assembly, shall be let by contract to the lowest responsible bidder; but the general assembly shall fix a maximum price; and no member thereof, or other officer of the State, shall be interested, directly or indirectly, in such contract. But all such contracts shall be subject to the approval of the governor, and if he disapproves the same there shall be a reletting of the contract, in such manner as shall be prescribed by law.

SEC. 26. The State of Illinois shall never be made defendant in any court of law or equity.

SEC. 27. The general assembly shall have no power to authorize lotteries or gift-enterprises, for any purpose, and shall pass laws to prohibit the sale of lottery or gift-enterprise tickets in this State.

SEC. 28. No law shall be passed which shall operate to extend the term of any public officer after his election or appointment.

SEC. 29. It shall be the duty of the general assembly to pass such laws as may be necessary for the protection of operative miners, by providing for ventilation, when the same may be required, and the construction of escapement-shafts, or such other appliances as may secure safety in all coal-mines, and to provide for the enforcement of said laws by such penalties and punishments as may be deemed proper.

SEC. 30. The general assembly may provide for establishing and opening roads and cartways, connected with a public road, for private and public use.

SEC. 31. The general assembly may pass laws permitting the owners or occupants of lands to construct drains and ditches, for agricultural and sanitary purposes, across the lands of others.

SEC. 32. The general assembly shall pass liberal homestead and exemption laws.

SEC. 33. The general assembly shall not appropriate out of the State treasury, or expend on account of the new capitol grounds, and construction, completion, and furnishing of the state-house, a sum exceeding, in the aggregate, $3,500,000, inclusive of all appropriations heretofore made, without first submitting the proposition for an additional expenditure to the legal voters of the State, at a general election; nor unless a majority of all the votes cast at such election shall be for the proposed additional expenditure.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction, and attorney-general, who shall each, with the exception of the treasurer, hold his office for the term of four years from the second Monday of January next after his election, and until his successor is elected and qualified. They shall, except the lieutenant-governor, reside at the seat of government during their term of office, and keep the public records, books, and papers there, and shall perform such duties as may be prescribed by law.

SEC. 2. The treasurer shall hold his office for the term of two years, and until his successor is elected and qualified; and shall be ineligible to said office for two years next after the end of the term for which he was elected. He may be required by the governor to give reasonable additional security, and in default of so doing his office shall be deemed vacant.

SEC. 3. An election for governor, lieutenant-governor, secretary of state, auditor of public accounts, and attorney-general shall be held on the Tuesday next after the first Monday of November, in the year of our Lord 1872, and every four years thereafter; for superintendent of public instruction, on the Tuesday next after the first Monday of November, in the year 1870, and every four years thereafter; and for treasurer on the day last above mentioned, and every two years thereafter, at such places and in such manner as may be prescribed by law.

SEC. 4. The returns of every election for the above-named officers shall be sealed up and transmitted, by the returning-officers, to the secretary of state, directed to the "Speaker of the House of Representatives," who shall, immediately after the organization of the house, and before proceeding to other business, open and publish the same in the presence of a majority of each house of the general assembly, who shall, for that purpose, assemble in the hall of the house of representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more have an equal, and the highest, number of votes, the general assembly shall, by joint ballot, choose one of such persons for said office. Contested elections for all of said offices shall be determined by both houses of the general assembly, by joint ballot, in such manner as may be prescribed by law.

SEC. 5. No person shall be eligible to the office of governor or lieutenant-governor who shall not have attained the age of thirty years, and been for five years next preceding his election a citizen of the United States and of this State. Neither the governor or lieutenant-governor, auditor of public accounts, secretary of state, superintendent of public instruction, nor attorney-general shall be eligible to any other office during the period for which he shall have been elected.

SEC. 6. The supreme executive power shall be vested in the governor, who shall take care that the laws be faithfully executed.

SEC. 7. The governor shall, at the commencement of each session, and at the close of his term of office, give to the general assembly information, by message, of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall account to the general assembly, and accompany his message with a statement of all moneys received and paid out by him from any funds subject to his order, with vouchers, and at the commencement of each regular session present estimates of the amount of money required to be raised by taxation for all purposes.

SEC. 8. The governor may, on extraordinary occasions, convene the general assembly, by proclamation, stating therein the purpose for which they are convened;

and the general assembly shall enter upon no business except that for which they were called together.

SEC. 9. In case of a disagreement between the two houses with respect to the time of adjournment, the governor may, on the same being certified to him by the house first moving the adjournment, adjourn the general assembly to such time as he thinks proper, not beyond the first day of the next regular session.

SEC. 10. The governor shall nominate and, by and with the advice and consent of the senate, (a majority of all the senators elected concurring, by yeas and nays,) appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided for; and no such officer shall be appointed or elected by the general assembly.

SEC. 11. In case of a vacancy, during the recess of the senate, in any office which is not elective, the governor shall make a temporary appointment until the next meeting of the senate, when he shall nominate some person to fill such office; and any person so nominated, who is confirmed by the senate, (a majority of all the senators elected concurring by yeas and nays,) shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified. No person, after being rejected by the senate, shall be again nominated for the same office at the same session, unless at the request of the senate, or be appointed to the same office during the recess of the general assembly.

SEC. 12. The governor shall have power to remove any officer whom he may appoint, in case of incompetency, neglect of duty, or malfeasance in office; and he may declare his office vacant, and fill the same as is herein provided in other cases of vacancy.

SEC. 13. The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offences, subject to such regulations as may be provided by law relative to the manner of applying therefor.

SEC. 14. The governor shall be commander-in-chief of the military and naval forces of the State, (except when they shall be called into the service of the United States,) and may call out the same to execute the laws, suppress insurrection, and repel invasion.

SEC. 15. The governor, and all civil officers of this State, shall be liable to impeachment for any misdemeanor in office.

SEC. 16. Every bill passed by the general assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objections at large upon its journal, and proceed to reconsider the bill. If then two-thirds of the members elected agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law, notwithstanding the objections of the governor. But in all such cases, the vote of each house shall be determined by yeas and nays, to be entered on the journal. Any bill which shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, shall become a law in like manner as if he had signed it, unless the general assembly shall, by their adjournment, prevent its return; in which case it shall be filed, with his objections, in the office of the secretary of state, within ten days after such adjournment, or become a law.

SEC. 17. In case of the death, conviction on impeachment, failure to qualify, resignation, absence from the State, or other disability of the governor, the powers, duties, and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the lieutenant-governor.

SEC. 18. The lieutenant-governor shall be president of the senate, and shall vote only when the senate is equally divided. The senate shall choose a president *pro tempore*, to preside in case of the absence or impeachment of the lieutenant-governor, or when he shall hold the office of governor.

SEC. 19. If there be no lieutenant-governor, or if the lieutenant-governor shall, for any of the causes specified in section seventeen of this article, become incapable of perform-

ing the duties of the office, the president of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president of the senate, for any of the above-named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 20. If the office of auditor of public accounts, treasurer, secretary of state, attorney-general, or superintendent of public instruction shall be vacated by death, resignation, or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law. An account shall be kept by the officers of the executive department, and of all the public institutions of the State, of all moneys received or disbursed by them, severally, from all sources, and for every service performed, and a semi-annual report thereof be made to the governor, under oath; and any officer who makes a false report shall be guilty of perjury, and punished accordingly.

SEC. 21. The officers of the executive department, and of all the public institutions of the State, shall, at least ten days preceding each regular session of the general assembly, severally report to the governor, who shall transmit such report to the general assembly, together with the reports of the judges of the supreme court, of defects in the constitution and laws; and the governor may at any time require information, in writing, under oath, from the officers of the executive department, and all officers and managers of State institutions, upon any subject relating to the condition, management, and expenses of their respective offices.

SEC. 22. There shall be a seal of the State, which shall be called the "Great Seal of the State of Illinois," which shall be kept by the secretary of state, and used by him, officially, as directed by law.

SEC. 23. The officers named in this article shall receive for their services a salary, to be established by law, which shall not be increased or diminished during their official terms, and they shall not, after the expiration of the terms of those in office at the adoption of this constitution, receive to their own use any fees, costs, perquisites of office, or other compensation. And all fees that may hereafter be payable by law for any services performed by any officer provided for in this article of the constitution shall be paid in advance into the State treasury.

SEC. 24. An office is a public position created by the constitution or law, continuing during the pleasure of the appointing power, or for a fixed time, with a successor elected or appointed. An employment is an agency, for a temporary purpose, which ceases when that purpose is accomplished.

SEC. 25. All civil officers, except members of the general assembly and such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United State, and the constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of ——— according to the best of my ability."

And no other oath, declaration, or test shall be required as a qualification.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial powers, except as in this article is otherwise provided, shall be vested in one supreme court, circuit courts, county courts, justices of the peace, police-magistrates, and in such courts as may be created by law in and for cities and incorporated towns.

SEC. 2. The supreme court shall consist of seven judges, and shall have original jurisdiction in cases relating to the revenue, in *mandamus*, and *habeas corpus*, and appellate jurisdiction in all other cases. One of said judges shall be chief-justice; four shall constitute a quorum, and the concurrence of four shall be necessary to every decision.

SEC. 3. No person shall be eligible to the office of judge of the supreme court unless he shall be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in this State five years next preceding his election, and be a resident of the district in which he shall be elected.

SEC. 4. Terms of the supreme court shall continue to be held in the present grand divisions at the several places now provided for holding the same; and until otherwise provided by law, one or more terms of said court shall be held, for the northern division, in the city of Chicago, each year, at such times as said court may appoint, whenever said city or the county of Cook shall provide appropriate rooms therefor, and the use of a suitable library, without expense to the State. The judicial divisions may be altered, increased, or diminished in number, and the times and places of holding said court may be changed by law.

SEC. 5. The present grand divisions shall be preserved, and be denominated southern, central, and northern, until otherwise provided by law. The State shall be divided into seven districts for the election of judges, and, until otherwise provided by law, they shall be as follows:

First District.—The counties of Saint Clair, Clinton, Washington, Jefferson, Wayne, Edwards, Wabash, White, Hamilton, Franklin, Perry, Randolph, Monroe, Jackson, Williamson, Saline, Gallatin, Hardin, Pope, Union, Johnson, Alexander, Pulaski, and Massac.

Second District.—The counties of Madison, Bond, Marion, Clay, Richland, Lawrence, Crawford, Jasper, Effingham, Fayette, Montgomery, Macoupin, Shelby, Cumberland, Clark, Greene, Jersey, Calhoun, and Christian.

Third District.—The counties of Sangamon, Macon, Logan, De Witt, Piatt, Douglas, Champaign, Vermillion, McLean, Livingston, Ford, Iroquois, Coles, Edgar, Moultrie, and Tazewell.

Fourth District.—The counties of Fulton, McDonough, Hancock, Schuyler, Brown, Adams, Pike, Mason, Menard, Morgan, Cass, and Scott.

Fifth District.—The counties of Knox, Warren, Henderson, Mercer, Henry, Stark, Peoria, Marshall, Putnam, Bureau, La Salle, Grundy, and Woodford.

Sixth District.—The counties of Whitesides, Carroll, Jo Daviess, Stephenson, Winnebago, Boone, McHenry, Kane, Kendall, De Kalb, Lee, Ogle, and Rock Island.

Seventh District.—The counties of Lake, Cook, Will, Kankakee, and Du Page.

The boundaries of the districts may be changed at the session of the general assembly next preceding the election for judges therein, and at no other time; but whenever such alterations shall be made, the same shall be upon the rule of equality of population, as nearly as county boundaries will allow, and the districts shall be composed of contiguous counties, in as nearly compact form as circumstances will permit. The alteration of the districts shall not affect the tenure of office of any judge.

SEC. 6. At the time of voting on the adoption of this constitution, one judge of the supreme court shall be elected by the electors thereof, in each of said districts numbered two, three, six, and seven, who shall hold his office for the term of nine years from the first Monday of June, in the year of our Lord 1870. The term of office of judges of the supreme court, elected after the adoption of this constitution, shall be nine years; and on the first Monday of June of the year in which the term of any of the judges in office at the adoption of this constitution, or of the judges then elected, shall expire, and every nine years thereafter, there shall be an election for the successor or successors of such judges, in the respective districts wherein the term of such office shall expire. The chief-justice shall continue to act as such until the expiration of the term for which he was elected, after which the judges shall choose one of their number chief-justice.

SEC. 7. From and after adoption of this constitution, the judges of the supreme court shall each receive a salary of $4,000 per annum, payable quarterly, until otherwise provided by law. And after said salaries shall be fixed by law, the salaries of the judges in office shall not be increased or diminished during the terms for which said judges shall have been elected.

SEC. 8. Appeals and writs of error may be taken to the supreme court, held in the

grand division in which the case is decided, or, by consent of the parties, to any other grand division.

SEC. 9. The supreme court shall appoint one reporter of its decisions, who shall hold his office for six years, subject to removal by the court.

SEC. 10. At the time of the election for representatives in the general assembly, happening next preceding the expiration of the terms of office of the present clerks of said court, one clerk of said court for each division shall be elected whose term of office shall be six years from said election, but who shall not enter upon the duties of his office until the expiration of the term of his predecessor, and every six years thereafter one clerk of said court for each division shall be elected.

SEC. 11. After the year of our Lord 1874 inferior appellate courts, of uniform organization and jurisdiction, may be created in districts formed for that purpose, to which such appeals and writs of error as the general assembly may provide may be prosecuted from circuit and other courts, and from which appeals and writs of error shall lie to the supreme court, in all criminal cases, and cases in which a franchise, or freehold, or the validity of a statute is involved, and in such other cases as may be provided by law. Such appellate courts shall be held by such number of judges of the circuit courts, and at such times and places, and in such manner, as may be provided by law; but no judge shall sit in review upon cases decided by him; nor shall said judges receive any additional compensation for such services.

SEC. 12. The circuit courts shall have original jurisdiction of all causes in law and equity, and such appellate jurisdiction as is or may be provided by law, and shall hold two or more terms each year in every county. The terms of office of judges of circuit courts shall be six years.

SEC. 13. The State, exclusive of the county of Cook and other counties having a population of one hundred thousand, shall be divided into judicial circuits, prior to the expiration of the terms of office of the present judges of the circuit courts. Such circuits shall be formed of contiguous counties, in as nearly compact form and as nearly equal as circumstances will permit, having due regard to business, territory, and population, and shall not exceed in number one circuit for every one hundred thousand of population in the State. One judge shall be elected for each of said circuits by the electors thereof. New circuits may be formed and the boundaries of circuits changed by the general assembly, at its session next preceding the election for circuit judges, but at no other time: *Provided*, That the circuits may be equalized or changed at the first session of the general assembly after the adoption of this constitution. The creation, alteration, or change of any circuit shall not affect the tenure of office of any judge. Whenever the business of the circuit court of any one, or of two or more contiguous counties containing a population exceeding fifty thousand, shall occupy nine months of the year, the general assembly may make of such county or counties, a separate circuit. Whenever additional circuits are created, the foregoing limitations shall be observed.

SEC. 14. The general assembly shall provide for the times of holding court in each county; which shall not be changed, except by the general assembly next preceding the general election for judges of said courts; but additional terms may be provided for in any county. The election for judges of the circuit court shall be held on the first Monday in June, in the year of our Lord 1873, and every six years thereafter.

SEC. 15. The general assembly may divide the State into judicial circuits of greater population and territory, in lieu of the circuits provided for in section thirteen of this article, and provide for the election therein, severally, by the electors thereof, by general ticket, of not exceeding four judges, who shall hold the circuit courts in the circuit for which they shall be elected, in such manner as may be provided by law.

SEC. 16. From and after the adoption of this constitution, judges of the circuit courts shall receive a salary of $3,000 per annum, payable quarterly, until otherwise provided by law. And after their salaries shall be fixed by law, they shall not be increased or diminished during the terms for which said judges shall be, respectively, elected; and from and after the adoption of this constitution, no judge of the supreme or circuit court shall receive any other compensation, perquisite, or benefit, in any form

whatsoever, nor perform any other than judicial duties to which may belong any emoluments.

SEC. 17. No person shall be eligible to the office of judge of the circuit or any inferior court, or to membership in the "board of county commissioners," unless he shall be at least twenty-five years of age, and a citizen of the United States, nor unless he shall have resided in this State five years next preceding his election, and be a resident of the circuit, county, city, cities, or incorporated town in which he shall be elected.

SEC. 18. There shall be elected in and for each county, one county judge and one clerk of the county court, whose terms of office shall be four years. But the general assembly may create districts of two or more contiguous counties, in each of which shall be elected one judge, who shall take the place of and exercise the powers and jurisdiction of county judges in such districts. County courts shall be courts of record, and shall have original jurisdiction in all matters of probate; settlement of estates of deceased persons; appointment of guardians and conservators, and settlements of their accounts; in all matters relating to apprentices; and in proceeding for the collection of taxes and assessments, and such other jurisdiction as may be provided for by general law.

SEC. 19. Appeals and writs of error shall be allowed from final determinations of county courts, as may be provided by law.

SEC. 20. The general assembly may provide for the establishment of a probate court in each county having a population of over fifty thousand, and for the election of a judge thereof, whose term of office shall be the same as that of the county judge, and who shall be elected at the same time and in the same manner. Said courts, when established, shall have original jurisdiction of all probate matters, the settlement of estates of deceased persons, the appointment of guardians and conservators, and settlements of their accounts; in all matters relating to apprentices, and in all cases of the sales of real estate of deceased persons for the payment of debts.

SEC. 21. Justices of the peace, police-magistrates, and constables shall be elected in and for such districts as are or may be provided by law, and the jurisdiction of such justices of the peace and police-magistrates shall be uniform.

SEC. 22. At the election for members of the general assembly in the year of our Lord 1872, and every four years thereafter, there shall be elected a State's attorney in and for each county, in lieu of the State's attorneys now provided by law, whose term of office shall be four years.

SEC. 23. The county of Cook shall be one judicial circuit. The circuit court of Cook County shall consist of five judges, until their number shall be increased, as herein provided. The present judge of the recorder's court of the city of Chicago, and the present judge of the circuit court of Cook County, shall be two of said judges, and shall remain in office for the terms for which they were respectively elected, and until their successors shall be elected and qualified. The superior court of Chicago shall be continued, and called the superior court of Cook County. The general assembly may increase the number of said judges, by adding one to either of said courts for every additional fifty thousand inhabitants of said county, over and above a population of four hundred thousand. The terms of office of the judges of said courts hereafter shall be elected six years.

SEC. 24. The judge having the shortest unexpired term shall be chief-justice of the court of which he is a judge. In case there are two or more whose terms expire at the same time, it may be determined by lot which shall be chief-justice. Any judge of either of said courts shall have all the powers of a circuit judge, and may hold the court of which he is a member. Each of them may hold a different branch thereof at the same time.

SEC. 25. The judges of the superior and circuit courts, and the State's attorney, in said county, shall receive the same salaries, payable out of the State treasury, as is or may be paid from said treasury to the circuit judges and State's attorneys of the State, and such further compensation to be paid by the county of Cook as is or may be provided by law; such compensation shall not be changed during their continuance in office.

SEC. 26. The recorder's court of the city of Chicago shall be continued, and shall be called the "criminal court of Cook County." It shall have the jurisdiction of a

circuit court, in all cases of criminal and *quasi* criminal nature, arising in the county of Cook, or that may be brought before said court pursuant to law; and all recognizances and appeals taken in said county in criminal and *quasi* criminal cases shall be returnable and taken to said court. It shall have no jurisdiction in civil cases, except in those on behalf of the people, and incident to such criminal or *quasi* criminal matters, and to dispose of unfinished business. The terms of said criminal court of Cook County shall be held by one or more of the judges of the circuit or superior court of Cook County, as nearly as may be in alternation, as may be determined by said judges, or provided by law. Said judges shall be *ex-officio* judges of said court.

SEC. 27. The present clerk of the recorder's court of the city of Chicago shall be the clerk of the criminal court of Cook County during the term for which he was elected. The present clerks of the superior court of Chicago, and the present clerk of the circuit court of Cook County, shall continue in office during the terms for which they were respectively elected; and thereafter there shall be but one clerk of the superior court, to be elected by the qualified electors of said county, who shall hold his office for the term of four years, and until his successor is elected and qualified.

SEC. 28. All justices of the peace in the city of Chicago shall be appointed by the governor, by and with the advice and consent of the senate, (but only upon the recommendation of a majority of the judges of the circuit, superior, and county courts,) and for such districts as are now or shall hereafter be provided by law. They shall hold their offices for four years, and until their successors have been commissioned and qualified, but they may be removed by summary proceeding in the circuit or superior court, for extortion or other malfeasance. Existing justices of the peace and police-magistrates may hold their offices until the expiration of their respective terms.

SEC. 29. All judicial officers shall be commissioned by the governor. All laws relating to courts shall be general, and of uniform operation; and the organization, jurisdiction, powers, proceedings, and practice of all courts, of the same class or grade, so far as regulated by law, and the force and effect of the process, judgments, and decrees of such courts, severally, shall be uniform.

SEC. 30. The general assembly may, for cause entered on the journals, upon due notice and opportunity of defence, remove from office any judge, upon concurrence of three-fourths of all the members elected of each house. All other officers in this article mentioned shall be removed from office on prosecution and final conviction, for misdemeanor in office.

SEC. 31. All judges of courts of record, inferior to the supreme court, shall, on or before the first day of June, of each year, report in writing to the judges of the supreme court such defects and omissions in the laws as their experience may suggest; and the judges of the supreme court shall, on or before the first day of January, of each year, report in writing to the governor such defects and omissions in the constitution and laws as they may find to exist, together with appropriate forms of bills to cure such defects and omissions in the laws. And the judges of the several circuit courts shall report to the next general assembly the number of days they have held court, in the several counties composing their respective circuits, the preceding two years.

SEC. 32. All officers provided for in this article shall hold their offices until their successors shall be qualified, and they shall, respectively, reside in the division, circuit, county, or district for which they may be elected or appointed. The terms of office of all such officers, where not otherwise prescribed in this article, shall be four years. All officers, where not otherwise provided for in this article, shall perform such duties and receive such compensation as is, or may be, provided by law. Vacancies in such elective offices shall be filled by election; but where the unexpired term does not exceed one year, the vacancy shall be filled by appointment, as follows: Of judges, by the governor; of clerks of courts, by the court to which the office appertains, or by the judge or judges thereof; and of all such other offices, by the board of supervisors, or board of county commissioners, in the county where the vacancy occurs.

SEC. 33. All process shall run "In the name of the people of the State of Illinois;" and all prosecutions shall be carried on "In the name and by the authority of the people of the State of Illinois;" and conclude, "Against the peace and dignity of the same." "Population," wherever used in this article, shall be determined by the next preceding census of this State, or of the United States.

ARTICLE VII.

SUFFRAGE.

SECTION 1. Every person having resided in this State one year, in the county ninety days, and in the election-district thirty days next preceding any election therein, who was an elector in this State on the 1st day of April, in the year of our Lord 1848, or obtained a certificate of naturalization, before any court of record in this State, prior to the 1st day of January, in the year of our Lord 1870, or who shall be a male citizen of the United States above the age of twenty-one years, shall be entitled to vote at such election.

SEC. 2. All votes shall be by ballot.

SEC. 3. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of election, except in time of war or public danger.

SEC. 4. No elector shall be deemed to have lost his residence in this State by reason of his absence on the business of the United States, or of this State, or in the military or naval service of the United States.

SEC. 5. No soldier, seaman, or marine in the Army or Navy of the United States shall be deemed a resident of this State in consequence of being stationed therein.

SEC. 6. No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next preceding the election or appointment.

SEC. 7. The general assembly shall pass laws excluding from the right of suffrage persons convicted of infamous crimes.

ARTICLE VIII.

EDUCATION.

SECTION 1. The general assembly shall provide a thorough and efficient system of free schools, whereby all the children of this State may receive a good common-school education.

SEC. 2. All lands, moneys, or other property donated, granted, or received for school, college, seminary, or university purposes, and the proceeds thereof, shall be faithfully applied to the objects for which such gifts or grants were made.

SEC. 3. Neither the general assembly nor any county, city, town, township, school-district, or other public corporation, shall ever make any appropriation, or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money, or other personal property ever be made by the State, or any such corporation, to any church, or for any sectarian purpose.

SEC. 4. No teacher, State, county, township, or district-school officer shall be interested in the sale, proceeds, or profits of any book, apparatus, or furniture used, or to be used, in any school in this State, with which such officer or teacher may be connected, under such penalties as may be provided by the general assembly.

SEC. 5. There may be a county superintendent of schools in each county, whose qualifications, powers, duties, compensation, and time and manner of election, and term of office shall be prescribed by law.

ARTICLE IX.

REVENUE.

SECTION 1. The general assembly shall provide such revenue as may be needful, by levying a tax, by valuation, so that every person and corporation shall pay a tax in proportion to the value of his, her, or its property; such value to be ascertained by some person or persons, to be elected or appointed in such manner as the general

assembly shall direct, and not otherwise; but the general assembly shall have power to tax pedlers, auctioneers, brokers, hawkers, merchants, commission-merchants, show-men, jugglers, innkeepers, grocery-keepers, liquor-dealers, toll-bridges, ferries, insurance, telegraph, and express interests or business, venders of patents, and persons or corporations owning or using franchises and privileges, in such manner as it shall, from time to time, direct by general law, uniform as to the class upon which it operates.

SEC. 2. The specification of the objects and subjects of taxation shall not deprive the general assembly of the power to require other subjects or objects to be taxed, in such manner as may be consistent with the principles of taxation fixed in this constitution.

SEC. 3. The property of the State, counties, and other municipal corporations, both real and personal, and such other property as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery, and charitable purposes, may be exempted from taxation; but such exemption shall be only by general law. In the assessment of real estate encumbered by public easement, any depreciation occasioned by such easement may be deducted in the valuation of such property.

SEC. 4. The general assembly shall provide, in all cases where it may be necessary to sell real estate for the non-payment of taxes or special assessments for State, county, municipal, or other purposes, that a return of such unpaid taxes or assessments shall be made to some general officer of the county having authority to receive State and county taxes; and there shall be no sale of the said property for any of said taxes or assessments but by said officer, upon the order or judgment of some court of record.

SEC. 5. The right of redemption from all sales of real estate for the non-payment of taxes or special assessments of any character whatever, shall exist in favor of owners and persons interested in such real estate, for a period of not less than two years from such sales thereof. And the general assembly shall provide by law for reasonable notice to be given to the owners and parties interested, by publication or otherwise, of the fact of the sale of property for such taxes or assessments, and when the time of redemption shall expire: *Provided*, That occupants shall in all cases be served with personal notice before the time of redemption expires.

SEC. 6. The general assembly shall have no power to release or discharge any county, city, township, town, or district whatever, or the inhabitants thereof, or the property therein, from their or its proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

SEC. 7. All taxes levied for State purposes shall be paid into the State treasury.

SEC. 8. County authorities shall never assess taxes, the aggregates of which shall exceed seventy-five cents per one hundred dollars valuation, except for the payment of indebtedness existing at the adoption of this constitution, unless authorized by a vote of the people of the county.

SEC. 9. The general assembly may vest the corporate authorities of cities, towns, and villages with power to make local improvement by special assessment, or by special taxation of contiguous property, or otherwise. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but such taxes shall be uniform, in respect to persons and property, within the jurisdiction of the body imposing the same.

SEC. 10. The general assembly shall not impose taxes upon municipal corporations, or the inhabitants or property thereof, for corporate purposes, but shall require that all the taxable property within the limits of municipal corporations shall be taxed for the payment of debts contracted under authority of law, such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the same. Private property shall not be liable to be taken or sold for the payment of the corporate debts of a municipal corporation.

SEC. 11. No person who is in default, as collector or custodian of money or property belonging to a municipal corporation, shall be eligible to any office in or under such corporation. The fees, salary, or compensation of no municipal officer who is elected or appointed for a definite term of office, shall be increased or diminished during such term.

SEC. 12. No county, city, township, school-district, or other municipal corporation shall be allowed to become indebted in any manner or for any purpose, to an amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for the State and county taxes, previous to the incurring of such indebtedness. Any county, city, school-district, or other municipal corporation, incurring any indebtedness as aforesaid, shall, before or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal thereof within twenty years from the time of contracting the same. This section shall not be construed to prevent any county, city, township, school-district, or other municipal corporation, from issuing their bonds in compliance with any vote of the people which may have been had prior to the adoption of this constitution in pursuance of any law providing therefor.

ARTICLE X.

COUNTIES.

SECTION 1. No new county shall be formed or established by the general assembly which will reduce the county or counties, or either of them, from which it shall be taken, to less contents than four hundred square miles; nor shall any county be formed of less contents; nor shall any line thereof pass within less than ten miles of any county-seat of the county or counties proposed to be divided.

SEC. 2. No county shall be divided, or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county, voting on the question, shall vote for the same.

SEC. 3. There shall be no territory stricken from any county, unless a majority of the voters living in such territory shall petition for such division; and no territory shall be added to any county without the consent of the majority of the voters of the county to which it is proposed to be added. But the portion so stricken off and added to another county, or formed in whole or in part into a new county, shall be holden for, and obliged to pay, its proportion of the indebtedness of the county from which it has been taken.

SEC. 4. No county-seat shall be removed until the point to which it is proposed to be removed shall be fixed in pursuance of law, and three-fifths of the voters of the county, to be ascertained in such manner as shall be provided by general law, shall have voted in favor of its removal to such point; and no person shall vote on such question who has not resided in the county six months, and in the election precinct ninety days next preceding such election. The question of the removal of a county seat shall not be oftener submitted than once in ten years, to a vote of the people; but when an attempt is made to remove a county-seat to a point nearer to the centre of a county, then a majority vote only shall be necessary.

SEC. 5. The general assembly shall provide, by general law, for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting at any general election, shall so determine; and whenever any county shall adopt township organization, so much of this constitution as provides for the management of the fiscal concerns of the said county by the board of county commissioners may be dispensed with, and the affairs of said county may be transacted in such manner as the general assembly may provide. And in any county that shall have adopted a township organization, the question of continuing the same may be submitted to a vote of the electors of such county, at a general election, in the manner that now is or may be provided by law; and if a majority of all the votes cast upon that question shall be against township organization, then such organization shall cease in said county; and all laws in force in relation to counties not having township organization shall immediately take effect and be in force in such county. No two townships shall have the same name, and the day of holding the annual township meeting shall be uniform throughout the State.

SEC. 6. At the first election of county judges under this constitution there shall be elected in each of the counties of this State, not under township organization, three

officers, who shall be styled "the board of county commissioners," who shall hold sessions for the transaction of county business as shall be provided by law. One of said commissioners shall hold his office for one year, one for two years, and one for three years, to be determined by lot; and every year thereafter one such officer shall be elected in each of said counties for the term of three years.

SEC. 7. The county affairs of Cook County shall be managed by a board of commissioners of fifteen persons, ten of whom shall be elected from the city of Chicago, and five from towns outside of said city, in such manner as may be provided by law.

SEC. 8. In each county there shall be elected the following county officers: County judge, sheriff, county clerk, clerk of the circuit court, (who may be *ex-officio* recorder of deeds, except in counties having sixty thousand and more inhabitants, in which counties a recorder of deeds shall be elected at the general election in the year of our Lord 1872,) treasurer, surveyor, and coroner, each of whom shall enter upon the duties of his office, respectively, on the first Monday of December after their election; and they shall hold their respective offices for the term of four years, except the treasurer, sheriff, and coroner, who shall hold their offices for two years, and until their successors shall be elected and qualified.

SEC. 9. The clerks of all the courts of record, the treasurer, sheriff, coroner, and recorder of deeds of Cook County shall receive, as their only compensation for their services, salaries to be fixed by law, which shall in no case be as much as the lawful compensation of a judge of the circuit court of said county, and shall be paid, respectively, only out of the fees of the office actually collected. All fees, perquisites, and emoluments (above the amount of said salaries) shall be paid into the county treasury. The number of the deputies and assistants of such officers shall be determined by rule of the circuit court, to be entered of record, and their compensation shall be determined by the county board.

SEC. 10. The county board, except as provided in section nine of this article, shall fix the compensation of all county officers, with the amount of their necessary clerk-hire, stationery, fuel, and other expenses; and in all cases where fees are provided for, said compensation shall be paid only out of, and shall in no instance exceed, the fees actually collected. They shall not allow either of them more per annum than $1,500, in counties not exceeding 20,000 inhabitants; $2,000 in counties containing 20,000 and not exceeding 30,000 inhabitants; $2,500 in counties containing 30,000 and not exceeding 50,000 inhabitants; $3,000 in counties containing 50,000 and not exceeding 70,000 inhabitants; $3,500 in counties containing 70,000 and not exceeding 100,000 inhabitants; and $4,000 in counties containing over 100,000 and not exceeding 250,000 inhabitants; and not more than $1,000 additional compensation for each additional 100,000 inhabitants: *Provided*, That the compensation of no officer shall be increased or diminished during his term of office. All fees or allowances by them received, in excess of their said compensation, shall be paid into the county treasury.

SEC. 11. The fees of township officers, and of each class of county officers, shall be uniform in the class of counties to which they respectively belong. The compensation herein provided for shall apply only to officers hereafter elected, but all fees established by special laws shall cease at the adoption of this constitution, and such officers shall receive only such fees as are provided by general law.

SEC. 12. All laws fixing the fees of State, county, and township officers shall terminate with the terms, respectively, of those who may be in office at the meeting of the first general assembly after the adoption of this constitution; and the general assembly shall, by general law, uniform in its operation, provide for and regulate the fees of said officers and their successors, so as to reduce the same to a reasonable compensation for services actually rendered. But the general assembly may, by general law, classify the counties by population into not more than three classes, and regulate the fees according to class. This article shall not be construed as depriving the general assembly of the power to reduce the fees of existing officers.

SEC. 13. Every person who is elected or appointed to any office in this State, who shall be paid in whole or in part by fees, shall be required by law to make a semi-annual report, under oath, to some officer to be designated by law, of all his fees and emoluments.

ARTICLE XI.

CORPORATIONS.

SECTION 1. No corporation shall be created by special laws, or its charter extended, changed, or amended, except those for charitable, educational, penal, or reformatory purposes, which are to be and remain under the patronage and control of the State, but the general assembly shall provide, by general laws, for the organization of all corporations hereafter to be created.

SEC. 2. All existing charters or grants of special or exclusive privileges, under which organization shall not have taken place, or which shall not have been in operation within ten days from the time this constitution takes effect, shall thereafter have no validity or effect whatever.

SEC. 3. The general assembly shall provide by law that in all elections for directors or managers of incorporated companies every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

SEC. 4. No law shall be passed by the general assembly granting the right to construct and operate a street-railroad within any city, town, or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street-railroad.

SEC. 5. No State bank shall hereafter be created, nor shall the State own or be liable for any stock in any corporation or joint-stock company or association for banking purposes, now created, or to be hereafter created. No act of the general assembly authorizing or creating corporations or associations, with banking powers, whether of issue, deposit, or discount, nor amendments thereto, shall go into effect, or in any manner be in force, unless the same shall be submitted to a vote of the people at the general election next succeeding the passage of the same, and be approved by a majority of all the votes cast at such election for or against such law.

SEC. 6. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities accruing while he or she remains such stockholder.

SEC. 7. The suspension of specie payments by banking institutions, on their circulation, created by the laws of this State, shall never be permitted or sanctioned. Every banking association now, or which may hereafter be, organized under the laws of this State, shall make and publish a full and accurate quarterly statement of its affairs, (which shall be certified to, under oath, by one or more of its officers,) as may be provided by law.

SEC. 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the State treasurer, in United States or Illinois State stocks, to be rated at 10 per cent. below their par value; and in case of a depreciation of said stocks to the amount of 10 per cent. below par, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks. And said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer thereof, and to whom such transfer is made.

SEC. 9. Every railroad corporation organized, or doing business in this State, under the laws or authority thereof, shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and in which shall be kept, for public inspection, books, in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in,

and by whom; the transfers of said stock; the amount of its assets and liabilities, and the names and place of residence of its officers. The directors of every railroad corporation shall, annually, make a report, under oath, to the auditor of public accounts, or some officer to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. And the general assembly shall pass laws enforcing by suitable penalties the provisions of this section.

SEC. 10. The rolling-stock and all other movable property belonging to any railroad company or corporation in this State, shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the general assembly shall pass no law exempting any such property from execution and sale.

SEC. 11. No railroad corporation shall consolidate its stock, property, or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given, of at least sixty days, to all stockholders, in such manner as may be provided by law. A majority of the directors of any railroad corporation, now incorporated, or hereafter to be incorporated, by the laws of this State, shall be citizens and residents of this State.

SEC. 12. Railways heretofore constructed, or that may hereafter be constructed in this State, are hereby declared public highways, and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as may be prescribed by law. And the general assembly shall, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this State.

SEC. 13. No railroad corporation shall issue any stock of bonds, except for money, labor, or property, actually received, and applied to the purposes for which such corporation was created; and all stock dividends, and other fictitious increase of the capital stock or indebtedness of any such corporation, shall be void. The capital stock of no railroad corporation shall be increased for any purpose, except upon giving sixty days' public notice, in such manner as may be provided by law.

SEC. 14. The exercise of the power and the right of eminent domain shall never be so construed or abridged as to prevent the taking, by the general assembly, of the property and franchises of incorporated companies already organized, and subjecting them to the public necessity the same as of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation, when, in the exercise of the said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

SEC. 15. The general assembly shall pass laws to correct abuses, and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and enforce such laws, by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

ARTICLE XII.

MILITIA.

SECTION 1. The militia of the State of Illinois shall consist of all able-bodied male persons, resident in the State, between the ages of eighteen and forty-five, except such persons as now are, or hereafter may be, exempted by the laws of the United States, or of this State.

SEC. 2. The general assembly, in providing for the organization, equipment, and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

SEC. 3. All militia officers shall be commissioned by the governor, and may hold their commissions for such time as the general assembly may provide.

SEC. 4. The militia shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at muster and elections, and in going to and returning from the same.

SEC. 5. The military records, banners, and relics of the State shall be preserved as

an enduring memorial of the patriotism and valor of Illinois, and it shall be the duty of the general assembly to provide by law for the safe-keeping of the same.

SEC. 6. No person having conscientious scruples against bearing arms shall be compelled to do militia duty in time of peace: *Provided*, Such person shall pay an equivalent for such exemption.

ARTICLE XIII.

WAREHOUSES.

SECTION 1. All elevators or store-houses, where grain or other property is stored for a compensation, whether the property stored be kept separated or not, are declared to be public warehouses.

SEC. 2. The owner, lessee, or manager of each and every public warehouse, situated in any town or city of not less than one hundred thousand inhabitants, shall make weekly statements under oath, before some officer to be designated by law, and keep the same posted in some conspicuous place in the office of such warehouse, and shall also file a copy for public examination in such place as shall be designated by law, which statement shall correctly set forth the amount and grade of each and every kind of grain in such warehouse, together with such other property as may be stored therein, and what warehouse receipts have been issued, and are, at the time of making such statement, outstanding therefor; and shall, on the copy posted in the warehouse, note daily such changes as may be made in the quantity and grade of grain in such warehouse; and the different grades of grain shipped in separate lots shall not be mixed with inferior or superior grades without the consent of the owner or consignee thereof.

SEC. 3. The owners of property stored in any warehouse, or holder of a receipt for the same, shall always be at liberty to examine such property stored, and all the books and records of the warehouse in regard to such property.

SEC. 4. All railroad companies and other common carriers on railroads shall weigh and measure grain at points where it is shipped, and receipt for the full amount, and shall be responsible for the delivery of such amount to the owner or consignee thereof at the place of destination.

SEC. 5. All railroad companies receiving and transporting grain, in bulk or otherwise, shall deliver the same to any consignee thereof, or any elevator or public warehouse to which it may be consigned, provided such consignee, or the elevator, or public warehouse can be reached by any track owned, leased, or used, or which can be used by such railroad companies; and all railroad companies shall permit connections to be made with their track, so that any such consignee, and any public warehouse, coal-bank, or coal-yard may be reached by the cars on said railroad.

SEC. 6. It shall be the duty of the general assembly to pass all necessary laws to prevent the issue of false and fraudulent warehouse receipts, and to give full effect to this article of the constitution, which shall be liberally construed so as to protect producers and shippers. And the enumeration of the remedies herein named shall not be construed to deny to the general assembly the power to prescribe by law such other and further remedies as may be found expedient, or to deprive any persons of existing common-law remedies.

SEC. 7. The general assembly shall pass laws for the inspection of grain, for the protection of producers, shippers, and receivers of grain and produce.

ARTICLE XIV.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Whenever two-thirds of the members of each house of the general assembly shall, by a vote entered upon the journals thereof, concur that a convention is necessary to revise, alter, or amend the constitution, the question shall be submitted to the electors at the next general election. If a majority voting at the election vote for a convention, the general assembly shall at the next session provide for a convention, to consist of double the number of members of the senate, to be elected in the same manner, at the same places, and in the same districts. The general assembly shall, in the act calling the convention, designate the day, hour, and place of its meet-

ing, fix the pay of its members and officers, and provide for the payment of the same, together with the expenses necessarily incurred by the convention in the performance of its duties. Before proceeding the members shall take an oath to support the Constitution of the United States and of the State of Illinois, and to faithfully discharge their duties as members of the convention. The qualification of members shall be the same as that of members of the senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the general assembly. Said convention shall meet within three months after such election, and prepare such revision, alteration, or amendments of the constitution as shall be deemed necessary, which shall be submitted to the electors for their ratification or rejection, at an election appointed by the convention for that purpose, not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alterations, or amendments shall take effect.

SEC. 2. Amendments to the constitution may be proposed in either house of the general assembly, and if the same shall be voted for by two-thirds of all the members elected to each of the two houses, such proposed amendments, together with the yeas and nays of each house thereon, shall be entered in full on their respective journals; and said amendments shall be submitted to the electors of this State for adoption or rejection at the next election of members of the general assembly, in such manner as may be prescribed by law. The proposed amendments shall be published in full at least three months preceding the election, and if a majority of the electors voting at said election shall vote for the proposed amendments, they shall become a part of this constitution. But the general assembly shall have no power to propose amendments to more than one article of this constitution at the same session, nor to the same article oftener than once in four years.

ADDITIONAL SECTIONS.

ILLINOIS CENTRAL RAILROAD.

No contract, obligation, or liability whatever, of the Illinois Central Railroad Company, to pay any money into the State treasury, nor any lien of the State upon, or right to tax property of said company, in accordance with the provisions of the charter of said company, approved February 10, A. D. 1851, shall ever be released, suspended, modified, altered, remitted, or in any manner diminished or impaired by legislative or other authority; and all moneys derived from said company, after the payment of the State debt, shall be appropriated and set apart for the payment of the ordinary expenses of the State government, and for no other purposes whatever.

MUNICIPAL SUBSCRIPTIONS TO RAILROADS OR PRIVATE CORPORATIONS.

No county, city, town, township, or other municipality, shall ever become subscriber to the capital stock of any railroad or private corporation, or make donation to or loan its credit in aid of such corporation: *Provided, however,* That the adoption of this article shall not be construed as affecting the right of any such municipality to make such subscriptions where the same have been authorized, under existing laws, by a vote of the people of such municipalities prior to such adoption.

CANAL.

The Illinois and Michigan Canal shall never be sold or leased until the specific proposition for the sale or lease thereof shall first have been submitted to a vote of the people of the State at a general election, and have been approved by a majority of all the votes polled at such election. The general assembly shall never loan the credit of the State, or make appropriations from the treasury thereof, in aid of railroads or canals: *Provided,* That any surplus earnings of any canal may be appropriated for its enlargement or extension.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments made in the constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared:

SECTION 1. That all laws in force at the adoption of this constitution not inconsistent therewith, and all rights, actions, prosecutions, claims, and contracts of this State, individuals, or bodies-corporate, shall continue to be as valid as if this constitution had not been adopted.

SEC. 2. That all fines, taxes, penalties, and forfeitures due and owing to the State of Illinois under the present constitution and laws shall inure to the use of the people of the State of Illinois under this constitution.

SEC. 3. Recognizances, bonds, obligations, and all other instruments entered into or executed before the adoption of this constitution, to the people of the State of Illinois, to any State or county officer or public body, shall remain binding and valid, and rights and liabilities upon the same shall continue; and all crimes and misdemeanors shall be tried and punished as though no change had been made in the constitution of this State.

SEC. 4. County courts for the transaction of county business in counties not having adopted township organization, shall continue in existence, and exercise their present jurisdiction until the board of county commissioners provided in this constitution is organized in pursuance of an act of the general assembly; and the county courts in all other counties shall have the same power and jurisdiction they now possess until otherwise provided by general law.

SEC. 5. All existing courts which are not in this constitution specifically enumerated shall continue in existence and exercise their present jurisdiction until otherwise provided by law.

SEC. 6. All persons now filling any office or appointment shall continue in the exercise of the duties thereof, according to their respective commissions or appointments, unless by this constitution it is otherwise directed.

SEC. 7. On the day this constitution is submitted to the people for ratification an election shall be held for judges of the supreme court in the second, third, sixth, and seventh judicial election districts designated in this constitution, and for the election of three judges of the circuit court in the county of Cook, as provided for in the article of this constitution relating to the judiciary, at which election every person entitled to vote, according to the terms of this constitution, shall be allowed to vote; and the election shall be otherwise conducted, returns made, and certificates issued in accordance with existing laws, except that no registry shall be required at said election: *Provided*, That at said election in the county of Cook no elector shall vote for more than two candidates for circuit judge. If, upon canvassing the votes for and against the adoption of this constitution, it shall appear that there has been polled a greater number of votes against than for it, then no certificates of election shall be issued for any of said supreme or circuit judges.

SEC. 8. This constitution shall be submitted to the people of the State of Illinois for adoption or rejection at an election to be held on the first Saturday in July, A. D. 1870; and there shall be separately submitted at the same time, for adoption or rejection, sections nine, ten, eleven, twelve, thirteen, fourteen, and fifteen, relating to railroads, in the article entitled corporations; the article entitled counties; the article entitled warehouses; the question of requiring three-fifths vote to remove a county-seat; the section relating to the Illinois Central Railroad; the section in relation to minority representation; the section relating to municipal subscriptions to railroads or private corporations; and the section relating to the canal.

Every person entitled to vote under the provisions of this constitution, as defined in the article in relation to "suffrage," shall be entitled to vote for the adoption or rejection of this constitution, and for or against the articles, sections, and questions aforesaid, separately submitted; and the said qualified electors shall vote at the usual places of voting, unless otherwise provided; and the said election shall be conducted and returns thereof made according to the laws now in force regulating general elections, except

that no registry shall be required at said election: *Provided, however,* That the polls shall be kept open for the reception of ballots until sunset of said day of election.

SEC. 9. The secretary of state shall, at least twenty days before said election, cause to be delivered to the county clerk of each county blank poll-books, tally-lists, and forms of return, and twice the number of properly-prepared printed ballots for the said election that there are voters in such county, the expense whereof shall be audited and paid as other public printing ordered by the secretary of state is by law required to be audited and paid; and the several county clerks shall, at least five days before said election, cause to be distributed to the board of election in each election district in their respective counties said blank poll-books, tally-lists, forms of return, and tickets.

SEC. 10. At the said election the ballots shall be in the following form:

NEW CONSTITUTION TICKET.

For all the propositions on this ticket which are not cancelled with ink or pencil; and against all propositions which are so cancelled. For the new constitution. For the sections relating to railroads in the article entitled corporations. For the article entitled counties. For the article entitled warehouses. For a three-fifths vote to remove county-seats. For the section relating to the Illinois Central Railroad. For the section relating to minority representation. For the section relating to municipal subscriptions to railroads or private corporations. For the section relating to the canal.

Each of said tickets shall be counted as a vote cast for each proposition thereon not cancelled with ink or pencil, and against each proposition so cancelled, and returns thereof shall be made accordingly by the judges of election.

SEC. 11. The returns of the whole vote cast, and of the votes for the adoption or rejection of this constitution, and for or against the articles and sections respectively submitted, shall be made by the several county clerks, as is now provided by law, to the secretary of state, within twenty days after the election; and the returns of the said votes shall, within five days thereafter, be examined and canvassed by the auditor, treasurer, and secretary of state, or any two of them, in the presence of the governor, and proclamation shall be made by the governor, forthwith, of the result of the canvass.

SEC. 12. If it shall appear that a majority of the votes polled are "for the new constitution," then so much of this constitution as was not separately submitted to be voted on by articles and sections shall be the supreme law of the State of Illinois, on and after Monday, the 8th day of August, A. D. 1870; but if it shall appear that a majority of the votes polled were "against the new constitution," then so much thereof as was not separately submitted to be voted on by articles and sections shall be null and void. If it shall appear that a majority of the votes polled are "for the sections relating to railroads in the article entitled 'corporations;'" sections nine, ten, eleven, twelve, thirteen, fourteen, and fifteen, relating to railroads in the said article, shall be a part of the constitution of this State; but if a majority of said votes are against such sections, they shall be null and void. If a majority of the votes polled are "for the article entitled 'counties,'" such article shall be a part of the constitution of this State, and shall be substituted for article seven in the present constitution, entitled "counties;" but if a majority of said votes are against such article, the same shall be null and void. If a majority of the votes polled are for the article entitled "warehouses," such article shall be a part of the constitution of this State, but if a majority of the votes are against said article, the same shall be null and void. If a majority of the votes polled are for either of the sections separately submitted, relating respectively to the "Illinois Central Railroad," "minority representation," "municipal subscriptions to railroads or private corporations," and the "canal," then such of said sections as shall receive such majority shall be a part of the constitution of this State; but each of said sections so separately submitted against which, respectively, there shall be a majority of the votes polled, shall be null and void: *Provided,* That the section relating to "minority representation"

shall not be declared adopted unless the portion of the constitution not separately submitted to be voted on by articles and sections shall be adopted, and in case said section relating to "minority representation" shall become a portion of the constitution, it shall be substituted for sections seven and eight of the legislative article. If a majority of the votes cast at such election shall be for a three-fifths vote to remove a county-seat, then the words "a majority" shall be stricken out of section four of the article on counties, and the words "three-fifths" shall be inserted in lieu thereof; and the following words shall be added to said section, to wit: "But when an attempt is made to remove a county-seat to a point nearer to the centre of a county, then a majority vote only shall be necessary." If the foregoing proposition shall not receive a majority of the votes as aforesaid, then the same shall have no effect whatever.

SEC. 13. Immediately after the adoption of this constitution, the governor and secretary of state shall proceed to ascertain and fix the apportionment of the State for members of the first house of representatives under this constitution. The apportionment shall be based upon the Federal census of the year A. D. 1870 of the State of Illinois, and shall be made strictly in accordance with the rules and principles announced in the article on the legislative department of this constitution: *Provided*, That in case the Federal census aforesaid cannot be ascertained prior to Friday, the 23d day of September, A. D. 1870, then the said apportionment shall be based upon the State census of the year A. D. 1865, in accordance with the rules and principles aforesaid. The governor shall, on or before Wednesday, the 28th day of September, A. D. 1870, make official announcement of the said apportionment, under the great seal of the State; and one hundred copies thereof, duly certified, shall be forthwith transmitted by the secretary of state to each county clerk for distribution.

SEC. 14. The districts shall be regularly numbered by the secretary of state, commencing with Alexander County as number one, and proceeding thence northwardly through the State, and terminating with the county of Cook; but no county shall be numbered as more than one district, except the county of Cook, which shall constitute three districts, each embracing the territory contained in the now existing representative districts of said county. And on the Tuesday after the first Monday in November, A. D. 1870, the members of the first house of representatives under this constitution shall be elected according to the apportionment fixed and announced as aforesaid, and shall hold their offices for two years, and until their successors shall be elected and qualified.

SEC. 15. The senate, at its first session under this constitution, shall consist of fifty members, to be chosen as follows: At the general election held on the first Tuesday after the first Monday of November, A. D. 1870, two senators shall be elected in districts where term of senators expire on the first Monday of January, A. D. 1871, or where there shall be a vacancy, and in the remaining districts one senator shall be elected. Senators so elected shall hold their office two years.

SEC. 16. The general assembly, at its first session held after the adoption of this constitution, shall proceed to apportion the State for members of the senate and house of representatives, in accordance with the provisions of the article on the legislative department.

SEC. 17. When this constitution shall be ratified by the people, the governor shall forthwith, after having ascertained the fact, issue writs of election to the sheriffs of the several counties of this State, or in case of vacancies, to the coroners, for the election of all the officers, the time of whose election is fixed by this constitution or schedule, and it shall be the duty of said sheriffs or coroners to give such notice of the time and place of said election as is now prescribed by law.

SEC. 18. All laws of the State of Illinois, and all official writings, and the executive, legislative, and judicial proceedings, shall be conducted, preserved, and published in no other than the English language.

SEC. 19. The general assembly shall pass all laws necessary to carry into effect the provisions of this constitution.

SEC. 20. The circuit clerks of the different counties having a population over sixty thousand shall continue to be recorders (*ex officio*) for their respective counties, under this constitution, until the expiration of their respective terms.

SEC. 21. The judges of all courts of record in Cook County shall, in lieu of any salary provided for in this constitution, receive the compensation now provided by law until the adjournment of the first session of the general assembly after the adoption of this constitution.

SEC. 22. The present judge of the circuit court of Cook County shall continue to hold the circuit court of Lake County until otherwise provided by law.

SEC. 23. When this constitution shall be adopted, and take effect as the supreme law of the State of Illinois, the two-mill tax provided to be annually assessed and collected upon each dollar's worth of taxable property, in addition to all other taxes, as set forth in article fifteen of the now existing constitution, shall cease to be assessed after the year A. D. 1870.

SEC. 24. Nothing contained in this constitution shall be so construed as to deprive the general assembly of the power to authorize the city of Quincy to create any indebtedness for railroad or municipal purposes for which the people of said city shall have voted, and to which they shall have given, by such vote, their assent, prior to the 13th day of December, A. D. 1869: *Provided*, That no such indebtedness, so created, shall, in any part thereof, be paid by the State, or from any State revenue tax or fund, but the same shall be paid, if at all, by the said city of Quincy alone, and by taxes to be levied upon the taxable property thereof: *And provided further*, That the general assembly shall have no power in the premises that it could not exercise under the present constitution of this State.

SEC. 25. In case this constitution, and the articles and sections submitted separately, be adopted, the existing constitution shall cease in all its provisions, and in case this constitution be adopted, and any one or more of the articles or sections submitted separately be defeated, the provisions of the existing constitution, if any, on the same subject shall remain in force.

SEC. 26. The provisions of this constitution required to be executed, prior to the adoption or rejection thereof, shall take effect and be in force immediately.

Done in convention at the capitol, in the city of Springfield, on the 13th day of May, in the year of our Lord one thousand eight hundred and seventy, and of the Independence of the United States of America the ninety-fourth.

CHARLES HITCHCOCK, *President.*

JOHN Q. HARMON, *Secretary.*

INDIANA.

VIRGINIA ACT OF CESSION—1783.

[See "Illinois," pages 427–428.]

DEED OF CESSION FROM VIRGINIA—1784.

[See "Illinois," page 428.]

THE NORTHWEST TERRITORIAL GOVERNMENT—1787

[See "Illinois," pages 429–432.]

VIRGINIA ACT OF RATIFICATION—1788.

[See "Illinois," page 433.]

THE NORTHWEST TERRITORIAL GOVERNMENT—1789.

[See "Illinois," page 433.]

THE TERRITORIAL GOVERNMENT OF INDIANA—1800.

[See "Illinois," pages 434–435.]

THE TERRITORIAL GOVERNMENT OF INDIANA—1809.

[See "Illinois," pages 435–436.]

THE TERRITORIAL GOVERNMENT OF INDIANA.

[THIRTEENTH CONGRESS, SECOND SESSION.]

An Act to establish the mode of laying off the Territory of Indiana into districts, for the election of its members of the legislative council.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the house of representatives of the Indiana Territory be, and it is hereby, empowered, from time to time, to lay off the said Territory into five districts for the election of the members of the legislative council of the Territory aforesaid.

SEC. 2. *And be it further enacted,* That the districts established by Governor Harrison, in the year of our Lord one thousand eight hundred and nine, shall remain as the lawfully-authorized districts for the election of the members of the legislative council of said Territory, until the house of representatives thereof shall have exercised the power vested in that body by the first section of this act.

APPROVED, March 4, 1814.

ENABLING ACT FOR INDIANA—1816.

[FOURTEENTH CONGRESS, FIRST SESSION.]

An Act to enable the people of the Indiana Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the Territory of Indiana be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they shall deem proper; and the said State, when formed, shall be admitted into the Union upon the same footing with the original States, in all respects whatever.

SEC. 2. *And be it further enacted,* That the said State shall consist of all the territory included within the following boundaries, to wit: Bounded on the east by the meridian-line which forms the western boundary of the State of Ohio; on the south, by the river Ohio, from the mouth of the Great Miami River to the mouth of the river Wabash; on the west, by a line drawn along the middle of the Wabash, from its mouth to a point where a due-north line drawn from the town of Vincennes would last touch the northwestern shore of the said river; and from thence by a due-north line until the same shall intersect an east and west line drawn through a point ten miles north of the southern extreme of Lake Michigan; on the north, by the said east and west line, until the same shall intersect the first-mentioned meridian-line which forms the western boundary of the State of Ohio: *Provided,* That the convention hereinafter provided for, when formed, shall ratify the boundaries aforesaid; otherwise they shall be and remain as now prescribed by the ordinance for the government of the territory northwest of the river Ohio: *Provided also,* That the said State shall have concurrent jurisdiction on the river Wabash with the State to be formed west thereof, so far as the said river shall form a common boundary to both.

SEC. 3. *And be it further enacted,* That all male citizens of the United States, who shall have arrived at the age of twenty-one years, and resided within the said Territory at least one year previous to the day of election, and shall have paid a county or ter-

ritorial tax; and all persons having in other respects the legal qualifications to vote for representatives in the general assembly of the said Territory, be, and they are hereby, authorized to choose representatives to form a convention, who shall be apportioned amongst the several counties within the said Territory, according to the apportionment made by the legislature thereof, at their last session, to wit: From the county of Wayne, four representatives; from the county of Franklin, five representatives; from the county of Dearborn, three representatives; from the county of Switzerland, one representative; from the county of Jefferson, three representatives; from the county of Clark, five representatives; from the county of Harrison, five representatives; from the county of Washington, five representatives; from the county of Knox, five representatives; from the county of Gibson, four representatives; from the county of Posey, one representative; from the county of Warrick, one representative; and from the county of Perry, one representative. And the election for the representatives aforesaid shall be holden on the second Monday of May, one thousand eight hundred and sixteen, throughout the several counties in the said Territory; and shall be conducted in the same manner, and under the same penalties, as prescribed by the laws of said Territory, regulating elections therein for members of the house of representatives.

SEC. 4. *And be it further enacted*, That the members of the convention thus duly elected be, and they are hereby, authorized to meet at the seat of the government of the said Territory, on the second Monday of June next, which convention, when met, shall first determine, by a majority of the whole number elected, whether it be or be not expedient, at that time, to form a constitution and State government for the people within the said Territory, and if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and State government; or if it be deemed more expedient, the said convention shall provide by ordinance for electing representatives to form a constitution, or frame of government; which said representatives shall be chosen in such manner, and in such proportion, and shall meet at such time and place, as shall be prescribed by the said ordinance, and shall then form, for the people of said Territory, a constitution and State government: *Provided*, That the same, whenever formed, shall be republican, and not repugnant to those articles of the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, which are declared to be irrevocable between the original States, and the people and States of the territory northwest of the river Ohio; excepting so much of said articles as relate to the boundaries of the States therein to be formed.

SEC. 5. *And be it further enacted*, That until the next general census shall be taken, the said State shall be entitled to one representative in the House of Representatives of the United States.

SEC. 6. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the said Territory of Indiana, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States:

First. That the section numbered sixteen, in every township, and when such section has been sold, granted, or disposed of, other lands, equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such township for the use of schools.

Second. That all salt-springs within the said Territory, and the land reserved for the use of the same, together with such other lands as may, by the President of the United States, be deemed necessary and proper for working the said salt-springs, not exceeding, in the whole, the quantity contained in thirty-six entire sections, shall be granted to the said State, for the use of the people of the said State, the same to be used under such terms, conditions, and regulations as the legislature of the said State shall direct: *Provided*, The said legislature shall never sell nor lease the same for a longer period than ten years at any one time.

Third. That five per cent. of the net proceeds of the lands lying within the said Territory, and which shall be sold by Congress from and after the first day of December next, after deducting all expenses incident to the same, shall be reserved for making public roads and canals, of which three-fifths shall be applied to those objects within

the said State, under the direction of the legislature thereof, and two-fifths to the making of a road or roads leading to the said State under the direction of Congress.

Fourth. That one entire township, which shall be designated by the President of the United States, in addition to the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of the said State, to be appropriated solely to the use of such seminary by the said legislature.

Fifth. That four sections of land be, and the same are hereby, granted to the said State, for the purpose of fixing their seat of government thereon, which four sections shall, under the direction of the legislature of said State, be located at any time, in such township and range as the legislature aforesaid may select, on such lands as may hereafter be acquired by the United States from the Indian tribes within the said Territory: *Provided,* That such locations shall be made prior to the public sale of the lands of the United States surrounding such location: *And provided always,* That the five foregoing propositions, herein offered, are on the conditions that the convention of the said State shall provide by an ordinance, irrevocable without the consent of the United States, that every and each tract of land sold by the United States, from and after the first day of December next, shall be and remain exempt from any tax, laid by order or under any authority of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale.

APPROVED, April 19, 1816.

ORDINANCE ACCEPTING THE ENABLING ACT—1816.*

Be it ordained by the representatives of the people of the Territory of Indiana, in convention met at Corydon, on Monday, the tenth day of June, in the year of our Lord eighteen hundred and sixteen, That we do, for ourselves and our posterity, agree, determine, declare, and ordain, that we will, and do hereby, accept the propositions of the Congress of the United States, as made and contained in their act of the nineteenth day of April, eighteen hundred and sixteen, entitled "An act to enable the people of the Indiana Territory to form a State government and constitution, and for the admission of such State into the Union, on an equal footing with the original States."

And we do further, for ourselves and our posterity, hereby ratify, confirm, and establish the boundaries of the said State of Indiana, as fixed, prescribed, laid down, and established in the act of Congress aforesaid; and we do also, further, for ourselves and our posterity, hereby agree, determine, declare, and ordain that each and every tract of land sold by the United States, lying within the said State, and which shall be sold from and after the first day of December next, shall be and remain exempt from any tax laid by order or under any authority of the said State of Indiana, or by or under the authority of the general assembly thereof, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale of any such tract of land; and we do, moreover, for ourselves and our posterity, hereby declare and ordain, that this ordinance, and every part thereof, shall forever be and remain irrevocable and inviolate, without the consent of the United States, in Congress assembled, first had and obtained for the alteration thereof, or any part thereof.

CONSTITUTION OF INDIANA—1816.

PREAMBLE.

We, the representatives of the people of the Territory of Indiana, in convention met, at Corydon, on Monday, the tenth day of June, in the year of our Lord eight-

*Adopted at Corydon, June 29, 1816, by the convention which framed the first constitution of Indiana.

een hundred and sixteen, and of the Independence of the United States the fortieth, having the right of admission into the General Government as a member of the Union, consistent with the Constitution of the United States, the ordinance of Congress of one thousand seven hundred and eighty-seven, and the law of Congress entitled "An act to enable the people of the Indiana Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," in order to establish justice, promote the welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish the following constitution or form of government, and do mutually agree with each other to form ourselves into a free and independent State by the name of "The State of Indiana."

ARTICLE I.

SECTION 1. That the general, great, and essential principles of liberty and free government may be recognized and unalterably established, we declare: that all men are born equally free and independent, and have certain natural, inherent, and unalienable rights; among which are, the enjoying and defending life and liberty, and of acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety.

SEC. 2. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; for the advancement of these ends they have at all times an unalienable and indefeasible right to alter or reform their government in such manner as they may deem proper.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious societies or modes of worship; and no religious test shall be required as a qualification to any office of trust or profit.

SEC. 4. That elections shall be free and equal.

SEC. 5. That in all civil cases, where the value in controversy shall exceed the sum of twenty dollars, and in all criminal cases except in petit misdemeanors, which shall be punishable by fine only, not exceeding three dollars, in such manner as the legislature may prescribe by law, the right of trial by jury shall remain inviolate.

SEC. 6. That no power of suspending the operation of the laws shall be exercised, except by the legislature or its authority.

SEC. 7. That no man's particular services shall be demanded, or property taken or applied to public use, without the consent of his representatives, or without a just compensation being made therefor.

SEC. 8. The rights of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

SEC. 9. That the printing-presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

SEC. 10. In prosecutions for the publication of papers investigating the official conduct of officers, or men in a public capacity, or where the matter published is proper for the public information, the truth thereof may be given in evidence; and, in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

SEC. 11. That all courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by the due course of law, and right and justice administered without denial or delay.



SEC. 12. That no person arrested or confined in jail shall be treated with unnecessary rigor, or be put to answer any criminal charge, but by presentment, indictment, or impeachment.

SEC. 13. That, in all criminal prosecutions, the accused hath a right to be heard by himself and counsel, to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and, in prosecutions by indictment or presentment, a speedy public trial by an impartial jury of the county or district in which the offence shall have been committed, and shall not be compelled to give evidence against himself, nor shall be twice put in jeopardy for the same offence.

SEC. 14. That all persons shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless, in case of rebellion or invasion, the public safety may require it.

SEC. 15. Excessive bail shall not be required; excessive fines shall not be imposed; nor cruel and unusual punishments inflicted.

SEC. 16. All penalties shall be proportioned to the nature of the offence.

SEC. 17. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditor or creditors, in such manner as shall be prescribed by law.

SEC. 18. No *ex post facto* law, nor any law impairing the validity of contracts, shall ever be made; and no conviction shall work corruption of blood, nor forfeiture of estate.

SEC. 19. That the people have a right to assemble together, in a peaceable manner, to consult for their common good, to instruct their representatives, and to apply to the legislature for a redress of grievances.

SEC. 20. That the people have a right to bear arms for the defence of themselves and the State; and that the military shall be kept in strict subordination to the civil power.

SEC. 21. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

SEC. 22. That the legislature shall not grant any title of nobility or hereditary distinctions, nor create any office, the appointment to which shall be for a longer term than good behavior.

SEC. 23. That emigration from the State shall not be prohibited.

SEC. 24. To guard against any encroachments on the rights herein retained, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolable.

ARTICLE II.

The powers of the government of Indiana shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judiciary, to another. And no person, or collection of persons, being of one of those departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

ARTICLE III.

SECTION 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives, both to be elected by the people.

SEC. 2. The general assembly may, within two years after their first meeting, and shall, in the year eighteen hundred and twenty, and every subsequent term of five years, cause an enumeration to be made of all the white male inhabitants above the age of twenty-one years. The number of representatives shall, at the several periods of making such enumerations, be fixed by the general assembly, and apportioned among the several counties according to the number of white male inhabitants, above twenty-



one years of age, in each; and shall never be less than twenty-five, nor greater than thirty-six, until the number of white male inhabitants above twenty-one years of age shall be twenty-two thousand; and, after that event, at such ratio that the whole number of representatives shall never be less than thirty-six, nor exceed one hundred.

SEC. 3. The representatives shall be chosen annually, by the qualified electors of each county respectively, on the first Monday of August.

SEC. 4. No person shall be a representative unless he shall have attained the age of twenty-one years, and shall be a citizen of the United States, and an inhabitant of this State; shall also have resided within the limits of the county in which he shall be chosen one year next preceding his election, if the county shall have been so long erected; but if not, then within the limits of the county or counties out of which it shall have been taken, unless he shall have been absent on the public business of the United States, or of this State, and shall have paid a State or county tax.

SEC. 5. The senators shall be chosen for three years, on the first Monday in August, by the qualified voters for representatives; and, on their being convened in consequence of the first election, they shall be divided by lot from their respective counties or districts, as near as can be into three classes; the seats of the senators of the first class shall be vacated at the expiration of the first year; and the second class at the expiration of the second year; and of the third class at the expiration of the third year; so that one-third thereof, as near as possible, may be annually chosen forever thereafter.

SEC. 6. The number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the general assembly, and apportioned among the several counties or districts to be established by law, according to the number of white male inhabitants, of the age of twenty-one years, in each, and shall never be less than one-third, nor more than one-half, of the number of representatives.

SEC. 7. No person shall be a senator unless he shall have attained the age of twenty-five years, and shall be a citizen of the United States; and shall, next preceding the election, have resided two years in this State, the last twelve months of which in the county or district in which he may be elected, if the county or district shall have been so long erected; but if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken; unless he shall have been absent on the public business of the United States, or of this State, and shall moreover have paid a State or county tax.

SEC. 8. The house of representatives, when assembled, shall choose a speaker and its other officers, and the senate shall choose its officers, except the president; and each shall be judges of the qualifications and elections of its members, and sit upon its own adjournments. Two-thirds of each house shall constitute a quorum to do business; but a smaller number may adjourn, from day to day, and compel the attendance of absent members.

SEC. 9. Each house shall keep a journal of its proceedings, and publish them. The yeas and nays of the members, on any question, shall, at the request of any two of them, be entered on the journals.

SEC. 10. Any one member of either house shall have liberty to dissent from and protest against any act or resolution which he may think injurious to the public, or any individual or individuals, and have the reason of his dissent entered on the journals.

SEC. 11. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 12. When vacancies happen in either branch of the general assembly, the governor, or the person exercising the power of governor, shall issue writs of election to fill such vacancies.

SEC. 13. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to or returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 14. Each house may punish, by imprisonment, during their session, any person not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence: *Provided*, Such imprisonment shall not, at any one time, exceed twenty-four hours.

SEC. 15. The doors of each house, and of committees of the whole, shall be kept open, except in such cases as, in the opinion of the house, may require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting.

SEC. 16. Bills may originate in either house, but may be altered, amended, or rejected by the other.

SEC. 17. Every bill shall be read on three different days in each house, unless, in case of urgency, two-thirds of the house where such bill may be depending shall deem it expedient to dispense with this rule; and every bill, having passed both houses, shall be signed by the president and speaker of their respective houses.

SEC. 18. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Indiana.*"

SEC. 19. All bills for raising revenue shall originate in the house of representatives, but the Senate may amend or reject as in other bills.

SEC. 20. No person holding any office under the authority of the President of the United States, or of this State, militia officers excepted, shall be eligible to a seat in either branch of the general assembly, unless he resign his office previous to his election; nor shall any member of either branch of the general assembly, during the time for which he is elected, be eligible to any office, the appointment of which is vested in the general assembly: *Provided*, That nothing in this constitution shall be so construed as to prevent any member of the first session of the first general assembly from accepting any office that is created by this constitution, or the Constitution of the United States, and the salaries of which are established.

SEC. 21. No money shall be drawn from the treasury but in consequence of appropriations made by law.

SEC. 22. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws, at every annual session of the general assembly.

SEC. 23. The house of representatives shall have the sole power of impeaching, but a majority of all the members elected must concur in such impeachment. All impeachments shall be tried by the Senate, and, when sitting for that purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of a majority of all the senators elected.

SEC. 24. The governor, and all civil officers of the State, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors; but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, profit, or trust, under this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

SEC. 25. The first session of the general assembly shall commence on the first Monday of November next; and forever after the general assembly shall meet on the first Monday in December in every year, and at no other period unless directed by law, or provided for by this constitution.

SEC. 26. No person who hereafter may be a collector or holder of public money shall have a seat in either house of the general assembly, until such person shall have accounted for and paid into the treasury all sums for which he may be accountable.

ARTICLE IV.

SECTION 1. The supreme executive power of this State shall be vested in a governor, who shall be styled the governor of the State of Indiana.

SEC. 2. The governor shall be chosen by the qualified electors on the first Monday in August, at the places where they shall respectively vote for representatives thereof.

The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall open and publish them in presence of both houses of the general assembly; the person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of the members of both houses. Contested elections shall be determined by a committee to be selected from both houses of the general assembly, and formed and regulated in such manner as shall be directed by law.

SEC. 3. The governor shall hold his office during three years from and after the third day of the first session of the general assembly next ensuing this election, and until a successor shall be chosen and qualified; and shall not be capable of holding it longer than six years in any term of nine years.

SEC. 4. He shall be at least thirty years of age, and shall have been a citizen of the United States for ten years, and have resided in the State five years next preceding his election; unless he shall have been absent on the business of this State or of the United States: *Provided*, That this shall not disqualify any person from the office of governor who shall be a citizen of the United States, and shall have resided in the Indiana Territory two years next preceding the adoption of this constitution.

SEC. 5. No member of Congress, or person holding any office under the United States, or this State, shall exercise the office of governor or lieutenant-governor.

SEC. 6. The governor shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 7. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof, except when they shall be called into the service of the United States; but he shall not command personally in the field, unless he shall be advised so to do by a resolution of the general assembly.

SEC. 8. He shall nominate, and by and with the advice and consent of the senate appoint and commission, all officers, the appointment of which is not otherwise directed by this constitution; and all offices which may be created by the general assembly shall be filled in such manner as may be directed by law.

SEC. 9. Vacancies that may happen in offices, the appointment of which is vested in the governor and senate, or in the general assembly, shall be filled by the governor, during the recess of the general assembly, by granting commissions that shall expire at the end of the next session.

SEC. 10. He shall have power to remit fines and forfeitures, grant reprieves and pardons, except in cases of impeachment.

SEC. 11. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 12. He shall, from time to time, give to the general assembly information of the affairs of the State, and recommend to their consideration such measures as he shall deem expedient.

SEC. 13. He may, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place if that shall have become, since their last adjournment, dangerous from an enemy, or from contagious disorders; and, in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not beyond the time of the next annual session.

SEC. 14. He shall take care that the laws be faithfully executed.

SEC. 15. A lieutenant-governor shall be chosen at every election for a governor, in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant-governor, the electors shall distinguish whom they vote for as governor, and whom as lieutenant-governor.

SEC. 16. He shall, by virtue of his office, be president of the senate; have a right, when in committee of the whole, to debate and vote on all subjects, and, when the senate are equally divided, to give the casting vote.

SEC. 17. In case of impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the lieutenant-governor shall

exercise all the powers and authority appertaining to the office of governor, until another be duly qualified, or the governor absent or impeached shall return or be acquitted.

SEC. 18. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senate shall elect one of their own members as president for that occasion. And if, during the vacancy of the office of governor, the lieutenant-governor shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the president of the senate *pro tempore* shall, in like manner, administer the government until he shall be superseded by a governor or lieutenant-governor. The lieutenant-governor, while he acts as president of the senate, shall receive for his services the same compensation which shall, for the same period, be allowed to the speaker of the house of representatives, and no more; and during the time he administers the government as governor shall receive the same compensation which the governor would have received and been entitled to had he been employed in the duties of his office, and no more.

SEC. 19. The president *pro tempore* of the senate, during the time he administers the government, shall receive, in like manner, the same compensation which the governor would have received had he been employed in the duties of his office, and no more.

SEC. 20. If the lieutenant-governor shall be called upon to administer the government, and shall, while in such administration, resign, die, or be absent from the State, during the recess of the general assembly, it shall be the duty of the secretary of state, for the time being, to convene the senate, for the purpose of choosing a president *pro tempore*.

SEC. 21. A secretary of state shall be chosen by the joint ballot of both houses of the general assembly, and be commissioned by the governor, for four years, or until a new secretary be chosen and qualified. He shall keep a fair register, and attest all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before either house of the general assembly; and shall perform such other duties as may be enjoined him by law.

SEC. 22. Every bill which shall have passed both houses of the general assembly shall be presented to the governor; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon their journals, and proceed to reconsider it; if, after such reconsideration, a majority of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by a majority of all the members elected to that house, it shall be a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner as if he had signed it; unless the general assembly, by its adjournment, prevents its return, in which case it shall be a law, unless sent back within three days after their next meeting.

SEC. 23. Every resolution, to which the concurrence of both houses may be necessary, shall be presented to the governor, and before it shall take effect be approved by him; or, being disapproved, shall be repassed by a majority of all the members elected to both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 24. There shall be elected, by joint ballot of both houses of the general assembly, a treasurer and auditor, whose powers and duties shall be prescribed by law, and who shall hold their offices three years, and until their successors be appointed and qualified.

SEC. 25. There shall be elected in each county, by the qualified electors thereof, one sheriff and one coroner, at the times and places of holding elections for members of the general assembly. They shall continue in office two years, and until successors shall be chosen and duly qualified: *Provided*, That no person shall be eligible to the office of sheriff more than four years in any term of six years.

SEC. 26. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called "The Seal of the State of Indiana."

ARTICLE V.

SECTION 1. The judiciary power of this State, both as to matters of law and equity, shall be vested in one supreme court, in circuit courts, and in such other inferior courts as the general assembly may from time to time direct and establish.

SEC. 2. The supreme court shall consist of three judges, any two of whom shall form a quorum, and shall have appellate jurisdiction only, which shall be coextensive with the limits of the State, under such restrictions and regulations, not repugnant to this constitution, as may, from time to time, be prescribed by law: *Provided*, Nothing in this article shall be so construed as to prevent the general assembly from giving the supreme court original jurisdiction in capital cases and cases in chancery, where the president of the circuit court may be interested or prejudiced.

SEC. 3. The circuit courts shall each consist of a president and two associate judges. The State shall be divided by law into three circuits, for each of which a president shall be appointed, who, during his continuance in office, shall reside therein. The president and associate judges, in their respective counties, shall have common-law and chancery jurisdiction, as also complete criminal jurisdiction, in all such cases, and in such manner as may be prescribed by law. The president alone, in the absence of the associate judges, or the president and one of the associate judges, in the absence of the other, shall be competent to hold a court; as also the two associate judges, in the absence of the president, shall be competent to hold a court, except in capital cases and cases in chancery: *Provided*, That nothing herein contained shall prevent the general assembly from increasing the number of the circuits and presidents, as the exigencies of the State may from time to time require

SEC. 4. The judges of the supreme court, the circuit and other inferior courts, shall hold their offices during the term of seven years, if they shall so long behave well, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

SEC. 5. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the State, as also the presidents of the circuit courts in their respective circuits, and the associate judges in their respective counties.

SEC. 6. The supreme court shall hold its sessions at the seat of government, at such times as shall be prescribed by law; and the circuit courts shall be held in the respective counties as may be directed by law.

SEC. 7. The judges of the supreme court shall be appointed by the governor, by and with the advice and consent of the senate. The presidents of the circuit courts shall be appointed by joint ballot of both branches of the general assembly; and the associate judges of the circuit courts shall be elected by the qualified electors in the respective counties.

SEC. 8. The supreme court shall appoint its own clerk; and the clerks of the circuit court in the several counties shall be elected by the qualified electors in the several counties; but no person shall be eligible to the office of clerk of the circuit court in any county unless he shall first have obtained from one or more of the judges of the supreme court, or from one or more of the presidents of the circuit courts, a certificate that he is qualified to execute the duties of the office of clerk of the circuit court: *Provided*, That nothing herein contained shall prevent the circuit courts in each county from appointing a clerk *pro tempore* until a qualified clerk may be duly elected: *And provided also*, That the said clerks respectively, when qualified and elected, shall hold their offices seven years, and no longer, unless reappointed.

SEC. 9. All clerks shall be removable by impeachment, as in other cases.

SEC. 10. When any vacancies happen in any of the courts, occasioned by the death, resignation, or removal from office of any judge of the supreme or circuit courts, or any of the clerks of the said courts, a successor shall be appointed in the same manner as hereinbefore prescribed, who shall hold his office for the period which his predecessor had to serve, and no longer, unless reappointed.

SEC. 11. The style of all process shall be "The State of Indiana." All prosecutions shall be carried on in the name and by the authority of the State of Indiana, and all indictments shall conclude, "against the peace and dignity of the same."

SEC. 12. A competent number of justices of the peace shall be elected by the qualified electors in each township in the several counties, and shall continue in office five years, if they shall so long behave well, whose powers and duties shall, from time to time, be regulated and defined by law.

ARTICLE VI.

SECTION 1. In all elections not otherwise provided for by this constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who has resided in the State one year immediately preceding such election, shall be entitled to vote in the county where he resides; except such as shall be enlisted in the Army of the United States or their allies.

SEC. 2. All elections shall be by ballot: *Provided*, That the general assembly may, (if they deem it more expedient,) at their session in eighteen hundred and twenty-one, change the mode, so as to vote *viva voce*; after which time it shall remain unalterable.

SEC. 3. Electors shall, in all cases except treason, felony, or breach of the peace, be free from arrest in going to, during their attendance at, and returning home from elections.

SEC. 4. The general assembly shall have full power to exclude from electing, or being elected, any person convicted of any infamous crime.

SEC. 5. Nothing in this article shall be so construed as to prevent citizens of the United States, who were actual residents at the time of adopting this constitution, and who, by the existing laws of this Territory, are entitled to vote, or persons who have been absent from home on a visit or necessary business, from the privileges of electors.

ARTICLE VII.

SECTION 1. The militia of the State of Indiana shall consist of all free, able-bodied male persons (negroes, mulattoes, and Indians excepted) resident in the said State, between the ages of eighteen and forty-five years; except such persons as now are, or hereafter may be, exempted by the laws of the United States, or of this State; and shall be armed, equipped, and trained as the general assembly may provide by law.

SEC. 2. No person or persons, conscientiously scrupulous of bearing arms, shall be compelled to do militia duty: *Provided*, Such person or persons shall pay an equivalent for such exemption; which equivalent shall be collected annually, by a civil officer, and be hereafter fixed by law; and shall be equal, as near as may be, to the lowest fines assessed on those privates in militia who may neglect or refuse to perform military duty.

SEC. 3. Captains and subalterns shall be elected by those persons in their respective company districts who are subject to perform militia duty; and the captain of each company shall appoint the non-commissioned officers to said company.

SEC. 4. Majors shall be elected by those persons within the bounds of their respective battalion districts, subject to perform militia duty; and colonels shall be elected by those persons within the bounds of their respective regimental districts subject to perform militia duty.

SEC. 5. Brigadiers-general shall be elected by the commissioned officers within the bounds of their respective brigades, and majors-general shall be elected by the commissioned officers within the bounds of their respective divisions.

SEC. 6. Troops and squadrons of cavalry and companies of artillery, riflemen, grenadiers, or light infantry, may be formed in the said State, in such manner as shall be prescribed by law: *Provided, however*, That every troop or squadron of cavalry, company of artillery, riflemen, grenadiers, or light infantry, which may hereafter be formed within the said State, shall elect their own officers.

SEC. 7. The governor shall appoint the adjutant-general and quartermaster-general, as also his aids-de-camp.

SEC. 8. Majors-general shall appoint their aids-de-camp, and all other division staff-officers; brigadiers-general shall appoint their brigade-majors, and all other brigade staff-officers; and colonels shall appoint their regimental staff-officers.

SEC. 9. All militia officers shall be commissioned by the governor, and shall hold their commissions during good behavior, or until they shall arrive at the age of sixty years.

SEC. 10. The general assembly shall, by law, fix the method of dividing the militia of the State into divisions, brigades, regiments, battalions, and companies, and shall also fix the rank of all staff-officers.

ARTICLE VIII.

Every twelfth year after this constitution shall have taken effect, at the general election held for governor, there shall be a poll opened, in which the qualified electors of the State shall express, by vote, whether they are in favor of calling a convention or not; and if there should be a majority of all the votes given at such election, in favor of a convention, the governor shall inform the next general assembly thereof, whose duty it shall be to provide by law for the election of the members to the convention, the number thereof, and the time and place of their meeting, which law shall not be passed unless agreed to by a majority of all the members elected to both branches of the general assembly; and which convention, when met, shall have it in their power to revise, amend, or change the constitution. But as the holding any part of the human creation in slavery, or involuntary servitude, can only originate in usurpation and tyranny, no alteration of this constitution shall ever take place so as to introduce slavery or involuntary servitude in this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted.

ARTICLE IX.

SECTION 1. Knowledge and learning generally diffused through a community being essential to the preservation of a free government, and spreading the opportunities and advantages of education through the various parts of the country being highly conducive to this end, it shall be the duty of the general assembly to provide by law for the improvement of such lands as are, or hereafter may be, granted by the United States to this State, for the use of schools, and to apply any funds which may be raised from such lands, or from any other quarter, to the accomplishment of the grand object for which they are or may be intended. But no lands granted for the use of schools or seminaries of learning shall be sold, by authority of this State, prior to the year eighteen hundred and twenty; and the moneys which may be raised out of the sale of any such lands, or otherwise obtained for the purposes aforesaid, shall be and remain a fund for the exclusive purpose of promoting the interest of literature and the sciences, and for the support of seminaries and the public schools. The general assembly shall, from time to time, pass such laws as shall be calculated to encourage intellectual, scientifical, and agricultural improvement by allowing rewards and immunities for the promotion and improvement of arts, sciences, commerce, manufactures, and natural history; and to countenance and encourage the principles of humanity, industry, and morality.

SEC. 2. It shall be the duty of the general assembly, as soon as circumstances will permit, to provide by law for a general system of education, ascending in a regular graduation from township schools to a State university, wherein tuition shall be gratis, and equally open to all.

SEC. 3. And for the promotion of such salutary end, the money which shall be paid as an equivalent by persons exempt from militia duty, except in times of war, shall be exclusively, and in equal proportions, applied to the support of county seminaries; also, all fines assessed for any breach of the penal laws shall be applied to said seminaries, in the counties wherein they shall be assessed.

SEC. 4. It shall be the duty of the general assembly, as soon as circumstances will permit, to form a penal code, founded on the principles of reformation, and not of vindictive justice; and also to provide one or more farms to be an asylum for those persons who, by reason of age, infirmity, or other misfortunes, may have a claim upon the aid and beneficence of society, on such principles that such persons may therein find employment and every reasonable comfort, and lose by their usefulness the degrading sense of dependence.

SEC. 5. The general assembly, at the time they lay off a new county, shall cause at least 10 per cent. to be reserved out of the proceeds of the sale of town-lots in the seat of justice of such county for the use of a public library for such county; and at the same session they shall incorporate a library company, under such rules and regulations as will best secure its permanence and extend its benefits.

ARTICLE X.

SECTION 1. There shall not be established or incorporated in this State any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit, or bills payable to order or bearer: *Provided*, That nothing herein contained shall be so construed as to prevent the general assembly from establishing a State bank and branches, not exceeding one branch for any three counties, to be established at such place within such counties as the directors of the State bank may select: *Provided*, There be subscribed and paid in specie, on the part of individuals, a sum equal to thirty thousand dollars: *Provided also*, That the bank at Vincennes, and the Farmers' and Mechanics' Bank of Indiana, at Madison, shall be considered as incorporated banks according to the true tenor of the charters granted to said banks by the legislature of the Indiana Territory: *Provided*, That nothing herein contained shall be so construed as to prevent the general assembly from adopting either of the aforesaid banks as the State bank; and in case either of them shall be adopted as the State bank, the other may become a branch, under the rules and regulations hereinbefore prescribed.

ARTICLE XI.

SECTION 1. Every person who shall be chosen or appointed to any office of trust or profit under the authority of this State shall, before entering on the duties of said office, take an oath or affirmation, before any person lawfully authorized to administer oaths, to support the Constitution of the United States, and the constitution of this State, and also an oath of office.

SEC. 2. Treason against this State shall consist only in levying war against it, in adhering to its enemies, or giving them aid and comfort.

SEC. 3. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 4. The manner of administering an oath or affirmation shall be such as is most consistent with the conscience of the deponent, and shall be esteemed the most solemn appeal to God.

SEC. 5. Every person shall be disqualified from serving as governor, lieutenant-governor, senator, or representative, for the term for which he shall have been elected, who shall have been convicted of having given or offered any bribe, treat, or reward to procure his election.

SEC. 6. All officers shall reside within the State; and all district, county, or town officers, within their respective districts, counties, or towns, (the trustees of the town of Clarksville excepted,) and shall keep their respective offices at such places therein as may be directed by law; and all militia officers shall reside within the bounds of the division, brigade, regiment, battalion, or company to which they may severally belong.

SEC. 7. There shall be neither slavery nor involuntary servitude in this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted. Nor shall any indenture of any negro or mulatto, hereafter made and executed out of the bounds of this State, be of any validity within the State.

SEC. 8. No act of the general assembly shall be in force until it shall have been published in print, unless in cases of emergency.

SEC. 9. All commissions shall be in the name and by the authority of the State of Indiana, and sealed with the State seal, and signed by the governor, and attested by the secretary of state.

SEC. 10. There shall be elected in each county a recorder, who shall hold his office during the term of seven years, if he shall so long behave well: *Provided*, That nothing herein contained shall prevent the clerks of the circuit courts from holding the office of recorder.

SEC. 11. Corydon, in Harrison County, shall be the seat of government of the State of Indiana until the year eighteen hundred and twenty-five, and until removed by law.

SEC. 12. The general assembly, when they lay off any new county, shall not reduce the old county or counties from which the same shall be taken to a less content than four hundred square miles.

SEC. 13. No person shall hold more than one lucrative office at the same time, except as in this constitution expressly permitted.

SEC. 14. No person shall be appointed as a county officer, within any county, who shall not have been a citizen and an inhabitant therein one year next preceding his appointment, if the county shall have been so long erected; but if the county shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.

SEC. 15. All towns and township officers shall be appointed in such manner as shall be directed by law.

SEC. 16. The following officers of government shall not be allowed greater annual salaries, until the year eighteen hundred and nineteen, than as follows: The governor, one thousand dollars; the secretary of state, four hundred dollars; the auditor of public accounts, four hundred dollars; the treasurer, four hundred dollars; the judges of the supreme court, eight hundred dollars each; the presidents of the circuit courts, eight hundred dollars each; and the members of the general assembly, not exceeding two dollars per day each, during their attendance on the same, and two dollars for every twenty-five miles they shall severally travel, on the most usual route in going to and returning from the general assembly; after which time their pay shall be regulated by law. But no law passed to increase the pay of the members of the general assembly shall take effect until after the close of the session at which such law shall have been passed.

SEC. 17. In order that the boundaries of the State of Indiana may more clearly be known and established, it is hereby ordained and declared that the following shall be and forever remain the boundaries of the said State, to wit: Bounded on the east by the meridian-line which forms the western boundary of the State of Ohio; on the south by the Ohio River, from the mouth of the Great Miami River to the mouth of the river Wabash; on the west by a line drawn along the middle of the Wabash River from its mouth to a point where a due-north line, drawn from the town of Vincennes, would last touch the northwestern shore of the said Wabash River; and from thence, by a due-north line, until the same shall intersect an east and west line drawn through a point ten miles north of the southern extreme of Lake Michigan; on the north by the said east and west line, until the same shall intersect the first-mentioned meridian-line, which forms the western boundary of the State of Ohio.

ARTICLE XII.

SECTION 1. That no evils or inconvenience may arise from the change of a territorial government to a permanent State government, it is declared by this constitution that all rights, suits, actions, prosecutions, recognizances, contracts, and claims, both as it respects individuals and bodies-corporate, shall continue as if no change had taken place in this government.

SEC. 2. All fines, penalties, and forfeitures, due and owing to the Territory of Indiana, or any county therein, shall inure to the use of the State or county. All bonds

executed to the governor, or any other officer, in his official capacity in the Territory, shall pass over to the governor or other officers of the State or county, and their successors in office, for the use of the State or county, or by him or them to be respectively assigned over to the use of those concerned, as the case may be.

SEC. 3. The governor, secretary, and judges, and all other officers, both civil and military, under the territorial government, shall continue in the exercise of the duties of their respective departments, until the said officers are superseded under the authority of this constitution.

SEC. 4. All laws and parts of laws now in force in this Territory, not inconsistent with this constitution, shall continue and remain in full force and effect until they expire or be repealed.

SEC. 5. The governor shall use his private seal until a State seal be procured.

SEC. 6. The governor, secretary of state, auditor of public accounts, and treasurer shall severally reside and keep the public records, books, and papers, in any manner relating to their respective offices, at the seat of government: *Provided, notwithstanding*, That nothing herein contained shall be so construed as to affect the residence of the governor for the space of six months, and until buildings suitable for his accommodation shall be procured at the expense of the State.

SEC. 7. All suits, pleas, plaints, and other proceedings, now depending in any court of record, or justices' courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, *certiorari*, injunction, or other proceedings whatever, shall progress, and be carried on, in the respective court or courts, in the same manner as is now provided by law, and all proceedings had therein, in as full and complete a manner as if this constitution were not adopted; and appeals and writs of error may be taken from the circuit court and general court, now established in the Indiana Territory, to the supreme court, in such manner as shall be provided for by law.

SEC. 8. The president of this convention shall issue writs of election, directed to the several sheriffs of the several counties, requiring them to cause an election to be held for governor, lieutenant-governor, Representative to the Congress of the United States, members of the general assembly, sheriffs, and coroners, at the respective election districts in each county, on the first Monday in August next, which election shall be conducted in the manner prescribed by the existing election laws of the Indiana Territory; and the said governor, lieutenant-governor, members of the general assembly, sheriffs, and coroners, then duly elected, shall continue to exercise the duties of their respective offices for the time prescribed by this constitution, and until their successor or successors are qualified, and no longer.

SEC. 9. Until the first enumeration shall be made, as directed by this constitution, the county of Wayne shall be entitled to one senator and three representatives; the county of Franklin, one senator and three representatives; the county of Dearborn, one senator and two representatives; the county of Switzerland, one representative; and the county of Jefferson and Switzerland, one senator; and the county of Jefferson, two representatives; the county of Clark, one senator and three representatives; the county of Harrison, one senator and three representatives; the counties of Washington, Orange, and Jackson, one senator; and the county of Washington, two representatives; the counties of Orange and Jackson, one representative each; the county of Knox, one senator and three representatives; the county of Gibson, one senator and two representatives; the counties of Posey, Warrick, and Perry, one senator, and each of the aforesaid counties of Posey, Warrick, and Perry, one representative.

SEC. 10. All books, records, documents, warrants, and papers appertaining and belonging to the office of territorial treasurer of the Indiana Territory, and all moneys therein, and all papers and documents in the office of the secretary of said Territory, shall be disposed of as the general assembly of this State may direct.

SEC. 11. All suits, actions, pleas, plaints, prosecutions, and causes whatsoever, and all records, books, papers, and documents now in the general court, may be transferred to the supreme court established by this constitution; and all causes, suits, actions, pleas, plaints, and prosecutions whatsoever, now existing or pending in the circuit courts of this Territory, or which may be therein at the change of government,



and all records, books, papers, and documents relating to the said suits or filed in the said courts, may be transferred over to the circuit courts established by this constitution, under such rules and regulations as the general assembly may direct.

Done in convention, at Corydon, on the twenty-ninth day of June, in the year of our Lord eighteen hundred and sixteen, and of the Independence of the United States the fortieth.

In witness whereof we have hereunto subscribed our names.

JONATHAN JENNINGS, *President.*

WILLIAM HENDRICKS, *Secretary.*

RESOLUTION OF CONGRESS—1816.

Resolution for admitting the State of Indiana into the Union.

Whereas, in pursuance of an act of Congress passed on the nineteenth day of April, one thousand eight hundred and sixteen, entitled "An act to enable the people of the Indiana Territory to form a constitution and State government, and for the admission of that State into the Union," the people of the said Territory did, on the twenty-ninth day of June, in the present year, by a convention called for that purpose, form for themselves a constitution and State government, which constitution and State government, so formed, is republican, and in conformity with the principles of the articles of compact between the original States and the people and States in the territory northwest of the river Ohio, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Indiana shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

APPROVED, December 11, 1816.

CONSTITUTION OF INDIANA—1851.

PREAMBLE.

To the end that justice be established, public order maintained, and liberty perpetuated, we, the people of the State of Indiana, grateful to Almighty God for the free exercise of the right to choose our own form of government, do ordain this constitution.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. We declare that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that all power is inherent in the people; and that all free governments are, and of right ought to be, founded on their authority, and instituted for their peace, safety, and well-being. For the advancement of these ends, the people have, at all times, an indefeasible right to alter and reform their government.

SEC. 2. All men shall be secured in their natural right to worship Almighty God according to the dictates of their own consciences.

SEC. 3. No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

SEC. 4. No preference shall be given by law to any creed, religious society, or mode of worship; and no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent.

SEC. 5. No religious test shall be required as a qualification for any office of trust or profit.

SEC. 6. No money shall be drawn from the treasury for the benefit of any religious or theological institution.

SEC. 7. No person shall be rendered incompetent as a witness in consequence of his opinions on matters of religion.

SEC. 8. The mode of administering an oath or affirmation shall be such as may be most consistent with and binding upon the conscience of the person to whom such oath or affirmation may be administered.

SEC. 9. No law shall be passed restraining the free interchange of thought and opinion, or restricting the right to speak, write, or print freely on any subject whatever; but for the abuse of that right every person shall be responsible.

SEC. 10. In all prosecutions for libel, the truth of the matters alleged to be libellous may be given in justification.

SEC. 11. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable search or seizure, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

SEC. 12. All courts shall be open; and every man, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely and without purchase; completely, and without denial; speedily, and without delay.

SEC. 13. In all criminal prosecutions the accused shall have the right to a public trial by an impartial jury, in the county in which the offence shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor.

SEC. 14. No person shall be put in jeopardy twice for the same offence. No person in any criminal prosecution shall be compelled to testify against himself.

SEC. 15. No person arrested or confined in jail shall be treated with unnecessary rigor.

SEC. 16. Excessive bail shall not be required. Excessive fines shall not be imposed. Cruel and unusual punishments shall not be inflicted. All penalties shall be proportioned to the nature of the offence.

SEC. 17. Offences, other than murder or treason, shall be bailable by sufficient sureties. Murder or treason shall not be bailable, when the proof is evident or the presumption strong.

SEC. 18. The penal code shall be founded on the principles of reformation, and not of vindictive justice.

SEC. 19. In all criminal cases whatever the jury shall have the right to determine the law and the facts.

SEC. 20. In all civil cases, the right of trial by jury shall remain inviolate.

SEC. 21. No man's particular services shall be demanded without just compensation. No man's property shall be taken by law without just compensation; nor, except in case of the State, without such compensation first assessed and tendered.

SEC. 22. The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted; and there shall be no imprisonment for debt, except in case of fraud.

SEC. 23. The general assembly shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

SEC. 24. No *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

SEC. 25. No law shall be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this constitution.

SEC. 26. The operation of the laws shall never be suspended, except by the authority of the general assembly.

SEC. 27. The privilege of the writ of *habeas corpus* shall not be suspended, except in case of rebellion or invasion, and then only if the public safety demand it.

SEC. 28. Treason against the State shall consist only in levying war against it, and in giving aid and comfort to its enemies.

SEC. 29. No person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or upon his confession in open court.

SEC. 30. No conviction shall work corruption of blood or forfeiture of estate.

SEC. 31. No law shall restrain any of the inhabitants of the State from assembling together in a peaceable manner to consult for their common good, nor from instructing their representatives, nor from applying to the general assembly for redress of grievances.

SEC. 32. The people shall have a right to bear arms for the defence of themselves and the State.

SEC. 33. The military shall be kept in strict subordination to the civil power.

SEC. 34. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war but in a manner to be prescribed by law.

SEC. 35. The general assembly shall not grant any title of nobility, or confer hereditary distinctions.

SEC. 36. Emigration from the State shall not be prohibited.

SEC. 37. There shall be neither slavery nor involuntary servitude within the State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted. No indenture of any negro or mulatto, made and executed out of the bounds of the State, shall be valid within the State.

ARTICLE II.

SUFFRAGE AND ELECTION.

SECTION 1. All elections shall be free and equal.

SEC. 2. In all elections not otherwise provided for by this constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months immediately preceding such election; and every white male of foreign birth of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote in the township or precinct where he may reside.

SEC. 3. No soldier, seaman, or marine in the Army or Navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State, in consequence of having been stationed within the same; nor shall any such soldier, seaman, or marine have the right to vote.

SEC. 4. No person shall be deemed to have lost his residence in the State by reason of his absence, either on business of this State or of the United States.

SEC. 5. No negro or mulatto shall have the right of suffrage.

SEC. 6. Every person shall be disqualified from holding office during the term for which he may have been elected, who shall have given or offered a bribe, threat, or reward to procure his election.

SEC. 7. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or who shall agree to go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

SEC. 8. The general assembly shall have power to deprive of the right of suffrage, and to render ineligible, any person convicted of an infamous crime.

SEC. 9. No person holding a lucrative office or appointment under the United States, or under this State, shall be eligible to a seat in the general assembly; nor shall any person hold more than one lucrative office at the same time, except as in this consti-



tution expressly permitted: *Provided*, That officers in the militia, to which there is attached no annual salary, and the office of deputy postmaster, where the compensation does not exceed ninety dollars per annum, shall not be deemed lucrative: *And provided also*, That counties containing less than one thousand polls may confer the office of clerk, recorder, and auditor, or any two of said offices, upon the same person.

SEC. 10. No person who may hereafter be a collector or holder of public moneys shall be eligible to any office of trust or profit until he shall have accounted for and paid over, according to law, all sums for which he may be liable.

SEC. 11. In all cases in which it is provided that an office shall not be filled by the same person more than a certain number of years continuously, an appointment *pro tempore* shall not be reckoned a part of that term.

SEC. 12. In all cases, except treason, felony, and breach of the peace, electors shall be free from arrest in going to elections, during their attendance there, and in returning from the same.

SEC. 13. All elections by the people shall be by ballot; and all elections by the general assembly, or by either branch thereof, shall be *viva voce*.

SEC. 14. All general elections shall be held on the second Tuesday in October.

ARTICLE III.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government are divided into three separate departments, the legislative, the executive, including the administrative and the judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another, except as in this constitution expressly provided.

ARTICLE IV.

LEGISLATIVE.

SECTION 1. The legislative authority of the State shall be vested in a general assembly, which shall consist of a senate and a house of representatives. The style of every law shall be: "*Be it enacted by the general assembly of the State of Indiana*," and no law shall be enacted except by bill.

SEC. 2. The senate shall not exceed fifty, nor the house of representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts into which the State may from time to time be divided.

SEC. 3. Senators shall be elected for the term of four years, and representatives for the term of two years, from the day next after their general election: *Provided, however*, That the senators-elect, at the second meeting of the general assembly under this constitution, shall be divided by lot into two equal classes, as nearly as may be, and the seats of senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years; so that one-half, as nearly as possible, shall be chosen biennially forever thereafter. And in case of increase in the number of senators, they shall be so annexed by lot to one or the other of the two classes, as to keep them as nearly equal as practicable.

SEC. 4. The general assembly shall, at its second session after the adoption of this constitution, and every six years thereafter, cause an enumeration to be made of all the white male inhabitants over the age of twenty-one years.

SEC. 5. The number of senators and representatives shall, at the session next following each period of making such enumeration, be fixed by law, and apportioned among the several counties, according to the number of white male inhabitants above twenty-one years of age in each: *Provided*, That the first and second elections of members of the general assembly under this constitution shall be according to the apportionment last made by the general assembly before the adoption of this constitution.

SEC. 6. A senatorial or representative district, where more than one county shall



constitute a district, shall be composed of contiguous counties; and no county for senatorial apportionment shall ever be divided.

SEC. 7. No person shall be a senator or a representative who at the time of his election is not a citizen of the United States; nor any one who has not been for two years next preceding his election an inhabitant of this State, and for one year next preceding his election an inhabitant of the county or district whence he may be chosen. Senators shall be at least twenty-five, and representatives at least twenty-one, years of age.

SEC. 8. Senators and representatives, in all cases except treason, felony, and breach of the peace, shall be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and shall not be subject to any civil process during the session of the general assembly, nor during the fifteen days next before the commencement thereof. For any speech or debate in either house a member shall not be questioned in any other place.

SEC. 9. The sessions of the general assembly shall be held biennially at the capital of the State, commencing on the Thursday next after the first Monday of January, in the year one thousand eight hundred and fifty-three, and on the same day of every second year thereafter, unless a different day or place shall have been appointed by law. But if, in the opinion of the governor, the public welfare shall require it, he may at any time, by proclamation, call a special session.

SEC. 10. Each house when assembled shall choose its own officers, (the president of the senate excepted,) judge the elections, qualifications, and returns of its own members, determine its rules of proceeding, and sit upon its own adjournment. But neither house shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which it may be sitting.

SEC. 11. Two-thirds of each house shall constitute a quorum to do business; but a smaller number may meet, adjourn from day to day, and compel the attendance of absent members. A quorum being in attendance, if either house fail to effect an organization within the first five days thereafter, the members of the house so failing shall be entitled to no compensation from the end of the said five days until an organization shall have been effected.

SEC. 12. Each house shall keep a journal of its proceedings, and publish the same. The yeas and nays on any question shall, at the request of any two members, be entered, together with the names of the members demanding the same, on the journal: *Provided*, That, on a motion to adjourn, it shall require one-tenth of the members present to order the yeas and nays.

SEC. 13. The doors of each house and of committees of the whole shall be kept open, except in such cases as, in the opinion of either house, may require secrecy.

SEC. 14. Either house may punish its members for disorderly behavior, and may, with the concurrence of two-thirds, expel a member; but not a second time for the same cause.

SEC. 15. Either house, during its session, may punish by imprisonment any person not a member who shall have been guilty of disrespect to the house, by disorderly or contemptuous behavior in its presence; but such imprisonment shall not at any time exceed twenty-four hours.

SEC. 16. Each house shall have all powers necessary for a branch of the legislative department of a free and independent State.

SEC. 17. Bills may originate in either house, but may be amended or rejected in the other, except that bills for raising revenue shall originate in the house of representatives.

SEC. 18. Every bill shall be read by sections on three several days in each house, unless, in case of emergency, two-thirds of the house where such bill may be depending shall, by a vote of yeas and nays, deem it expedient to dispense with this rule; but the reading of a bill by sections, on its final passage, shall in no case be dispensed with; and the vote on the passage of every bill or joint resolution shall be taken by yeas and nays.

SEC. 19. Every act shall embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title; but if any subject shall be

embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

SEC. 20. Every act and joint resolution shall be plainly worded, avoiding as far as practicable the use of technical terms.

SEC. 21. No act shall ever be revised or amended by mere reference to its title; but the act revised or section amended shall be set forth and published at full length.

SEC. 22. The general assembly shall not pass local or special laws in any of the following-enumerated cases; that is to say:

Regulating the jurisdiction and duties of justices of the peace and of constables;

For the punishment of crimes and misdemeanors;

Regulating the practice in courts of justice;

Providing for changing the venue in civil and criminal cases;

Granting divorces;

Changing the names of persons;

For laying out, opening, and working on highways, and for the election or appointment of supervisors;

Vacating roads, town-plats, streets, alleys, and public squares;

Summoning and impanelling grand and petit juries, and providing for their compensation;

Regulating county and township business;

Regulating the election of county and township officers, and their compensation;

For the assessment and collection of taxes for State, county, township, or road purposes;

Providing for supporting common schools, and for the preservation of school-funds;

In relation to fees or salaries;

In relation to interest on money;

Providing for opening and conducting elections of State, county, or township officers, and designating the places of voting;

Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities, by executors, administrators, guardians, or trustees.

SEC. 23. In all the cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State.

SEC. 24. Provision may be made by general law for bringing suit against the State as to all liabilities originating after the adoption of this constitution; but no special act authorizing such suit to be brought, or making compensation to any person claiming damages against the State, shall ever be passed.

SEC. 25. A majority of all the members elected to each house shall be necessary to pass every bill or joint resolution; and all bills and joint resolutions so passed shall be signed by the presiding officers of the respective houses.

SEC. 26. Any member of either house shall have the right to protest, and to have his protest, with his reasons for dissent, entered on the journal.

SEC. 27. Every statute shall be a public law, unless otherwise declared in the statute itself.

SEC. 28. No act shall take effect until the same shall have been published and circulated in the several counties of this State by authority, except in case of emergency, which emergency shall be declared in the preamble, or in the body of the law.

SEC. 29. The members of the general assembly shall receive for their services a compensation to be fixed by law; but no increase of compensation shall take effect during the session at which such increase may be made. No session of the general assembly, except the first under this constitution, shall extend beyond the term of sixty-one days, nor any special session beyond the term of forty days.

SEC. 30. No senator or representative shall, during the term for which he may have been elected, be eligible to any office, the election to which is vested in the general assembly; nor shall he be appointed to any civil office of profit which shall have been created, or the emoluments of which shall have been increased during such term; but this latter provision shall not be construed to apply to any office elective by the people.

ARTICLE V.

EXECUTIVE.

SECTION 1. The executive power of the State shall be vested in a governor. He shall hold his office during four years, and shall not be eligible more than four years in any period of eight years.

SEC. 2. There shall be a lieutenant-governor, who shall hold his office during four years.

SEC. 3. The governor and lieutenant-governor shall be elected at the times and places of choosing members of the general assembly.

SEC. 4. In voting for governor and lieutenant-governor, the electors shall designate for whom they vote as governor, and for whom as lieutenant-governor. The returns of every election for governor and lieutenant-governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the general assembly.

SEC. 5. The person respectively having the highest number of votes for governor and lieutenant-governor, shall be elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the general assembly shall by joint vote forthwith proceed to elect one of the said persons governor or lieutenant, as the case may be.

SEC. 6. Contested elections for governor or lieutenant-governor shall be determined by the general assembly, in such manner as may be prescribed by law.

SEC. 7. No person shall be eligible to the office of governor or lieutenant-governor who shall not have been five years a citizen of the United States, and also a resident of the State of Indiana during the five years next preceding his election; nor shall any person be eligible to either of the said offices who shall not have attained the age of thirty years.

SEC. 8. No member of Congress, or person holding any office under the United States, or under this State, shall fill the office of governor or lieutenant-governor.

SEC. 9. The official term of the governor and lieutenant-governor shall commence on the second Monday of January, in the year one thousand eight hundred and fifty-three, and on the same day every fourth year thereafter.

SEC. 10. In case of the removal of the governor from office, or of his death, resignation, or inability to discharge the duties of the office, the same shall devolve on the lieutenant-governor; and the general assembly shall by law provide for the case of removal from office, death, resignation, or inability, both of the governor and lieutenant-governor, declaring what officer shall then act as governor; and such officer shall act accordingly, until the disability be removed, or a governor be elected.

SEC. 11. Whenever the lieutenant-governor shall act as governor, or shall be unable to attend as president of the senate, the senate shall elect one of its own members as president for the occasion.

SEC. 12. The governor shall be commander-in-chief of the military and naval forces, and may call out such forces to execute the laws, or to suppress insurrection, or to repel invasion.

SEC. 13. He shall from time to time give to the general assembly information touching the condition of the State, and recommend such measures as he shall judge to be expedient.

SEC. 14. Every bill which shall have passed the general assembly shall be presented to the governor; if he approve he shall sign it, but if not he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objections at large upon its journals, and proceed to reconsider the bill. If after such reconsideration a majority of all the members elected to that house shall agree to pass the bill, it shall be sent, with the governor's objections, to the other house, by which it shall likewise be reconsidered; and if approved by a majority of all the members elected to that house, it shall be a law. If any bill shall not be returned by the governor within three days, Sundays excepted, after it shall have been pre-

sented to him, it shall be a law without his signature, unless the general adjournment shall prevent its return, in which case it shall be a law, unless the governor within five days next after such adjournment shall file such bill, with his objection thereto, in the office of secretary of State, who shall lay the same before the general assembly at its next session, in like manner as if it had been returned by the governor. But no bill shall be presented to the governor within two days next previous to the final adjournment of the general assembly.

SEC. 15. The governor shall transact all necessary business with the officers of government, and may require information in writing from the officers of the administrative department, upon any subject relating to the duties of their respective offices.

SEC. 16. He shall take care that the laws be faithfully executed.

SEC. 17. He shall have the power to grant reprieves, commutations, and pardons, after conviction, for all offences except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the general assembly at its next meeting, when the general assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the general assembly at its next meeting each case of reprieve, commutation, or pardon granted, and also the names of all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted: *Provided, however*, That the general assembly may by law constitute a council, to be composed of officers of State, without whose advice and consent the governor shall not have power to grant pardons in any case, except such as may by law be left to his sole power.

SEC. 18. When, during a recess of the general assembly, a vacancy shall happen in any office, the appointment to which is vested in the general assembly; or when at any time a vacancy shall have occurred in any other State office, or in the office of judge of any court, the governor shall fill such vacancy by appointment, which shall expire when a successor shall have been elected and qualified.

SEC. 19. He shall issue writs of election to fill such vacancies as may have occurred in the general assembly.

SEC. 20. Should the seat of government become dangerous from disease or a common enemy, he may convene the general assembly at any other place.

SEC. 21. The lieutenant-governor shall, by virtue of his office, be president of the senate, have a right when in committee of the whole to join in debate, and to vote on all subjects; and whenever the senate shall be equally divided, he shall give the casting vote.

SEC. 22. The governor shall at stated times receive for his services a compensation which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 23. The lieutenant-governor, while he shall act as president of the senate, shall receive for his services the same compensation as the speaker of the house of representatives; and any person acting as governor shall receive the compensation attached to the office of governor.

SEC. 24. Neither the governor nor lieutenant-governor shall be eligible to any other office during the term for which he shall have been elected.

ARTICLE VI.

ADMINISTRATIVE.

SECTION 1. There shall be elected by the voters of the State, a secretary, an auditor, and a treasurer of state, who shall severally hold their offices for two years. They shall perform such duties as may be enjoined by law; and no person shall be eligible to either of said offices more than four years in any period of six years.

SEC. 2. There shall be elected in each county by the voters thereof, at the time of holding general elections, a clerk of the circuit court, auditor, recorder, treasurer,

sheriff, coroner, and surveyor. The clerk, auditor, and recorder shall continue in office four years; and no person shall be eligible to the office of clerk, recorder, or auditor more than eight years in any period of twelve years. The treasurer, sheriff, coroner, and surveyor shall continue in office two years; and no person shall be eligible to the office of treasurer or sheriff more than four years in any period of six years.

SEC. 3. Such other county and township officers as may be necessary shall be elected or appointed in such manner as may be prescribed by law.

SEC. 4. No person shall be elected or appointed as a county officer who shall not be an elector of the county; nor any one who shall not have been an inhabitant thereof during one year next preceding his appointment, if the county shall have been so long organized; but if the county shall not have been so long organized, then within the limits of the county or counties out of which the same shall have been taken.

SEC. 5. The governor, and the secretary, auditor, and treasurer of state, shall severally reside, and keep the public records, books, and papers in any manner relating to their respective offices, at the seat of government.

SEC. 6. All county, township, and town officers shall reside within their respective counties, townships, and towns, and shall keep their respective offices at such places therein, and perform such duties as may be prescribed by law.

SEC. 7. All State officers shall, for crime, incapacity, or negligence, be liable to be removed from office, either by impeachment by the house of representatives, to be tried by the senate, or by a joint resolution of the general assembly, two-thirds of the members elected to each branch voting in either case therefor.

SEC. 8. All state, county, township, and town officers may be impeached or removed from office in such manner as may be prescribed by law.

SEC. 9. Vacancies in county, township, and town offices shall be filled in such manner as may be prescribed by law.

SEC. 10. The general assembly may confer upon the boards doing county business in the several counties powers of a local administrative character.

ARTICLE VII.

JUDICIAL.

SECTION 1. The judical power of the State shall be vested in a supreme court, in circuit courts, and in such inferior courts as the general assembly may establish.

SEC. 2. The supreme court shall consist of not less than three nor more than five judges, a majority of whom shall form a quorum. They shall hold their offices for six years, if they so long behave well.

SEC. 3. The State shall be divided into as many districts as there are judges of the supreme court; and such districts shall be formed of contiguous territory, as nearly equal in population as, without dividing a county, the same can be made. One of said judges shall be elected from each district, and reside therein; but said judges shall be elected by the electors of the State at large.

SEC. 4. The supreme court shall have jurisdiction coextensive with the limits of the State, in appeals and writs of error, under such regulations and restrictions as may be prescribed by law. It shall also have such original jurisdiction as the general assembly may confer.

SEC. 5. The supreme court shall, upon the decision of every case, give a statement in writing of each question arising in the record of such case, and the decision of the court thereon.

SEC. 6. The general assembly shall provide by law for the speedy publication of the decisions of the supreme court made under this constitution; but no judge shall be allowed to report such decisions.

SEC. 7. There shall be elected by the voters of the State a clerk of the supreme court, who shall hold his office four years, and whose duties shall be prescribed by law.

SEC. 8. The circuit courts shall each consist of one judge, and shall have such civil and criminal jurisdiction as may be prescribed by law.

SEC. 9. The State shall, from time to time, be divided into judicial circuits; and a judge for each circuit shall be elected by the voters thereof. He shall reside within the circuit, and shall hold his office for the term of six years, if he so long behave well.

SEC. 10. The general assembly may provide by law that the judge of one circuit may hold the courts of another circuit, in cases of necessity or convenience; and in case of temporary inability of any judge, from sickness or other cause, to hold the courts in his circuit, provision may be made by law for holding such courts.

SEC. 11. There shall be elected in each judicial circuit, by the voters thereof, a prosecuting attorney, who shall hold his office for two years.

SEC. 12. Any judge or prosecuting attorney who shall have been convicted of corruption or other high crime, may, on information in the name of the State, be removed from office by the supreme court, or in such other manner as may be prescribed by law.

SEC. 13. The judges of the supreme court and circuit courts shall, at stated times, receive a compensation, which shall not be diminished during their continuance in office.

SEC. 14. A competent number of justices of the peace shall be elected by the voters in each township in the several counties. They shall continue in office four years, and their powers and duties shall be prescribed by law.

SEC. 15. All judicial officers shall be conservators of the peace in their respective jurisdictions.

SEC. 16. No person elected to any judicial office shall, during the term for which he shall have been elected, be eligible to any office of trust or profit under the State, other than a judicial office.

SEC. 17. The general assembly may modify or abolish the grand-jury system.

SEC. 18. All criminal prosecutions shall be carried on in the name and by the authority of the State; and the style of all process shall be: "The State of Indiana."

SEC. 19. Tribunals of conciliation may be established, with such powers and duties as shall be prescribed by law; or the powers and duties of the same may be conferred upon other courts of justice; but such tribunals or other courts, when sitting as such, shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference, and agree to abide the judgment of such tribunal or court.

SEC. 20. The general assembly, at its first session after the adoption of this constitution, shall provide for the appointment of three commissioners, whose duty it shall be to revise, simplify, and abridge the rules, practice, pleadings, and forms of the courts of justice. And they shall provide for abolishing the distinct forms of action at law now in use, and that justice shall be administered in a uniform mode of pleading, without distinction between law and equity. And the general assembly may also make it the duty of said commissioners to reduce into a systematic code the general statute law of the State; and said commissioners shall report the result of their labors to the general assembly, with such recommendations and suggestions as to abridgment and amendment as to said commissioners may seem necessary or proper. Provision shall be made by law for filling vacancies, regulating the tenure of office, and the compensation of said commissioners.

SEC. 21. Every person of good moral character, being a voter, shall be entitled to admission to practice law in all courts of justice.

ARTICLE VIII.

EDUCATION.

SECTION 1. Knowledge and learning generally diffused throughout a community being essential to the preservation of a free government, it shall be the duty of the general assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement, and to provide by law for a general and uniform system of common schools, wherein tuition shall be without charge, and equally to all.

SEC. 2. The common-school fund shall consist of the congressional-township fund, and the lands belonging thereto;

The surplus-revenue fund;

The saline fund, and the lands belonging thereto;

The bank-tax fund, and the fund arising from the one hundred and fourteenth section of the charter of the State Bank of Indiana;

The fund to be derived from the sale of county seminaries, and the moneys and property heretofore held for such seminaries; from the fines assessed for breaches of the penal laws of the State; and from all forfeitures which may accrue;

All lands and other estate which shall escheat to the State for want of heirs or kindred entitled to the inheritance;

All lands that have been, or may hereafter be, granted to the State, where no special purpose is expressed in the grant, and the proceeds of the sales thereof, including the proceeds of the sales of the swamp-lands granted to the State of Indiana by the act of Congress of 28th of September, 1850, after deducting the expense of selecting and draining the same;

Taxes on the property of corporations that may be assessed by the general assembly for common-school purposes.

SEC. 3. The principal of the common-school fund shall remain a perpetual fund, which may be increased, but shall never be diminished; and the income thereof shall be inviolably appropriated to the support of common schools, and to no other purpose whatever.

SEC. 4. The general assembly shall invest, in some safe and profitable manner, all such portions of the common-school fund as have not heretofore been intrusted to the several counties; and shall make provision by law for the distribution among the several counties of the interest thereof.

SEC. 5. If any county shall fail to demand its proportion of such interest for common-school purposes, the same shall be reinvested for the benefit of such county.

SEC. 6. The several counties shall be held liable for the preservation of so much of the said fund as may be intrusted to them, and for the payment of the annual interest thereon.

SEC. 7. All trust-funds held by the State shall remain inviolate, and be faithfully and exclusively applied to the purposes for which the trust was created.

SEC. 8. The general assembly shall provide for the election, by the voters of the State, of a State superintendent of public instruction, who shall hold his office for two years, and whose duties and compensation shall be prescribed by law.

ARTICLE IX.

STATE INSTITUTIONS.

SECTION 1. It shall be the duty of the general assembly to provide by law for the support of institutions for the education of the deaf and dumb, and of the blind, and also for the treatment of the insane.

SEC. 2. The general assembly shall provide houses of refuge for the correction and reformation of juvenile offenders.

SEC. 3. The county boards shall have power to provide farms, as an asylum for those persons who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathies and aid of society.

ARTICLE X.

FINANCE.

SECTION 1. The general assembly shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes, as may be specially exempted by law.

SEC. 2. All the revenues derived from the sale of any of the public works belonging to the State, and from the net annual income thereof, and any surplus that may at any time remain in the treasury derived from taxation for general State purposes, after the payment of the ordinary expenses of the government, and of the interest on bonds of the State, other than bank-bonds, shall be annually applied, under the direction of the general assembly, to the payment of the principal of the public debt.

SEC. 3. No money shall be drawn from the treasury but in pursuance of appropriations made by law.

SEC. 4. An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the general assembly.

SEC. 5. No law shall authorize any debt to be contracted on behalf of the State, except in the following cases: To meet casual deficits in the revenue, to pay the interest on the State debt, to repel invasion, suppress insurrection, or, if hostilities be threatened, provide for the public defence.

SEC. 6. No county shall subscribe for stock in any incorporated company, unless the same be paid for at the time of such subscription; nor shall any county loan its credit to any incorporated company, nor borrow money for the purpose of taking stock in any such company; nor shall the general assembly ever, on behalf of the State, assume the debts of any county, city, town, or township, nor of any corporation whatever.

ARTICLE XI.

CORPORATIONS.

SECTION 1. The general assembly shall not have power to establish or incorporate any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit, or bills payable to order or bearer, except under the conditions prescribed in this constitution.

SEC. 2. No banks shall be established otherwise than under a general banking law, except as provided in the fourth section of this article.

SEC. 3. If the general assembly shall enact a general banking law, such law shall provide for the registry and countersigning by an officer of state of all paper credit designed to be circulated as money, and ample collateral security, readily convertible into specie, or the redemption of the same in gold or silver, shall be required, which collateral security shall be under the control of the proper officer or officers of state.

SEC. 4. The general assembly may also charter a bank with branches without collateral security, as required in the preceding section.

SEC. 5. If the general assembly shall establish a bank with branches, the branches shall be mutually responsible for each other's liabilities upon all paper credit issued as money.

SEC. 6. The stockholders in every bank or banking company shall be individually responsible to an amount over and above their stock, equal to their respective shares of stock, for all debts or liabilities of said bank or banking company.

SEC. 7. All bills or notes issued as money shall be at all times redeemable in gold or silver; and no law shall be passed sanctioning, directly or indirectly, the suspension by any bank or banking company of specie payments.

SEC. 8. Holders of bank-notes shall be entitled, in case of insolvency, to preference of payment of over all other creditors.

SEC. 9. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals loaning money.

SEC. 10. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter to close its business.

SEC. 11. The general assembly is not prohibited from investing the trust-funds in a bank with branches; but in case of such investment, the safety of the same shall be guaranteed by unquestionable security.

SEC. 12. The State shall not be a stockholder in any bank after the expiration of the present bank-charter; nor shall the credit of the State ever be given or loaned in

aid of any person, association, or corporation; nor shall the State hereafter become a stockholder in any corporation or association.

SEC. 13. Corporations, other than banking, shall not be created by special act, but may be formed under general law.

SEC. 14. Dues from corporations, other than banking, shall be secured by such individual liability of the corporators, or other means, as may be prescribed by law.

ARTICLE XII.

MILITIA.

SECTION 1. The militia shall consist of all able-bodied white male persons, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States, or of this State; and shall be organized, officered, armed, equipped, and trained in such manner as may be provided by law.

SEC. 2. The governor shall appoint the adjutant, quartermaster, and commissary-generals.

SEC. 3. All militia officers shall be commissioned by the governor, and shall hold their offices not longer than six years.

SEC. 4. The general assembly shall determine the method of dividing the militia into divisions, brigades, regiments, battalions, and companies, and fix the rank of all staff officers.

SEC. 5. The militia may be divided into classes of sedentary and active militia, in such manner as shall be prescribed by law.

SEC. 6. No person conscientiously opposed to bearing arms shall be compelled to do militia duty; but such person shall pay an equivalent for exemption, the amount to be prescribed by law.

ARTICLE XIII.*

NEGROES AND MULATTOES.

SECTION 1. No negro or mulatto shall come into, or settle in the State, after the adoption of this constitution.

SEC. 2. All contracts made with any negro or mulatto coming into the State, contrary to the provisions of the foregoing section, shall be void; and any person who shall employ such negro or mulatto, or otherwise encourage him to remain in the State, shall be fined in any sum not less than ten dollars, nor more than five hundred dollars.

SEC. 3. All fines which may be collected for violation of the provisions of this article, or of any law which may hereafter be passed for the purpose of carrying the same into execution, shall be set apart and appropriated for the colonization of such negroes and mulattoes, and their descendants, as may be in the State at the adoption of this constitution, and may be willing to emigrate.

SEC. 4. The general assembly shall pass laws to carry out the provisions of this article.

ARTICLE XIV.

BOUNDARIES.

SECTION 1. In order that the boundaries of the State may be known and established, it is hereby ordained and declared, that the State of Indiana is bounded on the east by the meridian-line which forms the western boundary of the State of Ohio; on the south by the Ohio River; from the mouth of the Great Miami River to the mouth of the Wabash River; on the west by a line drawn along the middle of the Wabash River, from its mouth, to a point where a due-north line drawn from the town of Vincennes would last touch the northwestern shore of said Wabash River; and thence by a due-north line until the same shall intersect an east and west line drawn through a point ten miles north of the southern extreme of Lake Michigan; on the north by said east and west line until the same shall intersect the first-mentioned meridian-line, which forms the western boundary of the State of Ohio.

* The courts of Indiana have declared this article repugnant to the Constitution of the United States.

SEC. 2. The State of Indiana shall possess jurisdiction and sovereignty coextensive with the boundaries declared in the preceding section; and shall have concurrent jurisdiction in civil and criminal cases with the State of Kentucky on the Ohio River, and with the State of Illinois on the Wabash River, so far as said rivers form the common boundary between this State and said States respectively.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. All officers whose appointment is not otherwise provided for in this constitution, shall be chosen in such manner as now is, or hereafter may be, prescribed by law.

SEC. 2. When the duration of any office is not provided for by this constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the general assembly shall not create any office, the tenure of which shall be longer than four years.

SEC. 3. Whenever it is provided in this constitution, or in any law which may be hereafter passed, that any officer, other than a member of the general assembly, shall hold his office for any given term, the same shall be construed to mean that such officer shall hold his office for such term, and until his successor shall have been elected and qualified.

SEC. 4. Every person elected or appointed to any office under this constitution shall, before entering on the duties thereof, take an oath or affirmation to support the constitution of this State and of the United States, and also an oath of office.

SEC. 5. There shall be a seal of State kept by the governor for official purposes, which shall be called "The Seal of the State of Indiana."

SEC. 6. All commissions shall issue in the name of the State, shall be signed by the governor, sealed with the State seal, and attested by the secretary of state.

SEC. 7. No county shall be reduced to an area less than four hundred square miles; nor shall any county under that area be further reduced.

SEC. 8. No lottery shall be authorized, nor shall the sale of lottery-tickets be allowed.

SEC. 9. The following grounds, owned by the State in Indianapolis, namely: The State-house Square, the Governor's Circle, and so much of out-lot numbered one hundred and forty-seven, as lies north of the arm of the central canal, shall not be sold or leased.

SEC. 10. It shall be the duty of the general assembly to provide for the permanent inclosure and preservation of the Tippecanoe battle-ground.

ARTICLE XVI.

AMENDMENTS.

SECTION 1. Any amendment or amendments to this constitution may be proposed in either branch of the general assembly, and, if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and referred to the general assembly to be chosen at the next general election; and if in the general assembly so next chosen such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such amendment or amendments to the electors of the State; and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this constitution.

SEC. 2. If two or more amendments shall be submitted at the same time they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately; and while an amendment or amendments which shall have been agreed upon by one general assembly shall be awaiting the action of a succeeding general assembly, or of the electors, no additional amendment or amendments shall be proposed.

SCHEDULE.

This constitution, if adopted, shall take effect on the first day of November, in the year one thousand eight hundred and fifty-one, and shall supersede the constitution adopted in the year one thousand eight hundred and sixteen. That no inconvenience may arise from the change in the government, it is hereby ordained as follows:

SECTION 1. All laws now in force, and not inconsistent with this constitution, shall remain in force until they shall expire or be repealed.

SEC. 2. All indictments, prosecutions, suits, pleas, plaints, and other proceedings pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, *certiorari*, and injunctions shall be carried on in the several courts in the same manner as is now provided by law.

SEC. 3. All fines, penalties, and forfeitures due or accruing to the State, or to any county therein, shall inure to the State, or to such county, in the manner prescribed by law. All bonds executed to the State, or to any officer in his official capacity, shall remain in force, and inure to the use of those concerned.

SEC. 4. All acts of incorporation for municipal purposes shall continue in force under this constitution until such time as the general assembly shall, in its discretion, modify or repeal the same.

SEC. 5. The governor, at the expiration of the present official term, shall continue to act until his successor shall have been sworn into office.

SEC. 6. There shall be a session of the general assembly, commencing on the first Monday of December, in the year one thousand eight hundred and fifty-one.

SEC. 7. Senators now in office and holding over under the existing constitution, and such as may be elected at the next general election, and the representatives then elected, shall continue in office until the first general election under this constitution.

SEC. 8. The first general election under this constitution shall be held in the year one thousand eight hundred and fifty-two.

SEC. 9. The first election for governor, lieutenant-governor, judges of the supreme court and circuit courts, clerk of the supreme court, prosecuting attorney, secretary, auditor, and treasurer of State and State superintendent of public instruction, under this constitution, shall be held at the general election in the year one thousand eigh hundred and fifty-two; and such of said officers as may be in office when this constitution shall go into effect shall continue in their respective offices until their successors shall have been elected and qualified.

SEC. 10. Every person elected by popular vote, and now in any office which is continued by this constitution, and every person who shall be so elected to any such office before the taking effect of this constitution, (except as in this constitution otherwise provided,) shall continue in office until the term for which such person has been or may be elected shall expire: *Provided*, That no such person shall continue in office after the taking effect of this constitution for a longer period than the term of such office in this constitution prescribed.

SEC. 11. On the taking effect of this constitution, all officers thereby continued in office shall, before proceeding in the further discharge of their duties, take an oath or affirmation to support this constitution.

SEC. 12. All vacancies that may occur in existing offices prior to the first general election under this constitution shall be filled in the manner now prescribed by law.

SEC. 13. At the time of submitting this constitution to the electors for their approval or disapproval, the article numbered thirteen, in relation to negroes and mulattoes, shall be submitted as a distinct proposition, in the following form: "Exclusion and colonization of negroes and mulattoes," "aye" or "no." And if a majority of the votes cast shall be in favor of said article, then the same shall form a part of this constitution, otherwise it shall be void, and form no part thereof.

SEC. 14. No article or section of this constitution shall be submitted as a distinct proposition to a vote of the electors otherwise than as herein provided.

SEC. 15. Whenever a portion of the citizens of the counties of Perry and Spencer shall deem it expedient to form of the contiguous territory of said counties a new

county, it shall be the duty of those interested in the organization of such new county to lay off the same by proper metes and bounds, of equal portions as nearly as practicable, not to exceed one-third of the territory of each of said counties. The proposal to create such new county shall be submitted to the voters of said counties at a general election, in such manner as shall be prescribed by law. And if a majority of all the votes given at said election shall be in favor of the organization of said new county, it shall be the duty of the general assembly to organize the same out of the territory thus designated.

SEC. 16. The general assembly may alter or amend the charter of Clarksville, and make such regulations as may be necessary for carrying into effect the objects contemplated in granting the same; and the funds belonging to said town shall be applied according to the intention of the grantor.

Done in convention, at Indianapolis, the tenth day of February, in the year of our Lord one thousand eight hundred and fifty-one, and of the Independence of the United States the seventy-fifth.

GEORGE WHITFIELD CARR, *President.*

WM. H. ENGLISH, *Secretary.*

AMENDMENT TO THE CONSTITUTION OF 1851.

RATIFIED FEBRUARY 18, 1873.

No law or resolution shall ever be passed by the general assembly of the State of Indiana that shall recognize any liability of this State to pay or redeem any certificate of stock issued in pursuance of an act entitled "An act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville," passed January 19, 1846, and an act supplemental to said act, passed January 29, 1847, which, by the provisions of said acts, or either of them, shall be payable exclusively from the proceeds of the canal-lands, and the tolls and revenues of the canal in said acts mentioned, and no such certificate of stocks shall ever be paid by this State.

IOWA.

TREATY WITH FRANCE CEDING LOUISIANA—1803.

[See "Louisiana," pages 687–690.]

THE DISTRICT GOVERNMENT OF LOUISIANA—1804.

[See "Louisiana," pages 691–695.]

THE TERRITORIAL GOVERNMENT OF LOUISIANA—1805.

[See "Louisiana," pages 697–698.]

THE TERRITORIAL GOVERNMENT OF MISSOURI—1812.

[See "Missouri," pages 1097–1101.]

THE TERRITORIAL GOVERNMENT OF MICHIGAN—1834.*

[TWENTY-THIRD CONGRESS, FIRST SESSION.]

Be it enacted, &c., That all that part of the territory of the United States bounded on the east by the Mississippi River, on the south by the State of Missouri, and a line drawn due west from the northwest corner of said State to the Missouri River; on the southwest and west by the Missouri River and the White Earth River, falling into the same; and on the north by the northern boundary of the United States, shall be, and hereby is, for the purpose of temporary government, attached to, and made a part of, the Territory of Michigan, and the inhabitants therein shall be entitled to the same privileges and immunities, and be subject to the same laws, rules, and regulations, in all respects, as the other citizens of Michigan Territory.

APPROVED, June 28, 1834.

THE TERRITORIAL GOVERNMENT OF WISCONSIN—1836.

[See "Wisconsin," pages 2021–2025.]

THE TERRITORIAL GOVERNMENT OF IOWA—1838.

[TWENTY-FIFTH CONGRESS, SECOND SESSION.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the third day of July next, all that part

* This was the first special provision made for the government of that portion of the Territory of Missouri not included within the boundaries of the State of Missouri, as defined by the act of Congress approved March 6, 1820.

of the present Territory of Wisconsin, which lies west of the Mississippi River, and west of a line drawn due north from the headwaters or sources of the Mississippi to the territorial line, shall, for the purposes of temporary government, be and constitute a separate territorial government by the name of Iowa, and that from and after the said third day of July next, the present territorial government of Wisconsin shall extend only to that part of the present Territory of Wisconsin which lies east of the Mississippi River. And after the said third day of July next, all power and authority of the government of Wisconsin in and over the Territory hereby constituted shall cease: *Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now appertaining to any Indians within the said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to impair the obligations of any treaty now existing between the United States and such Indians, or to impair or anywise to affect the authority of the Government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty or law, or otherwise, which it would have been competent to the Government to make, if this act had never been passed: *Provided*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing the Territory hereby established into one or more other Territories, in such manner and at such times as Congress shall, in its discretion, deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over the said Territory of Iowa shall be vested in a governor, who shall hold his office for three years, unless sooner removed by the President of the United States. The governor shall reside within the said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve of all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offences against the laws of the said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of the said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws, and one copy of the executive proceedings, on or before the first Monday in December in each year, to the President of the United States, and, at the same time, two copies of the laws to the Speaker of the House of Representatives, for the use of Congress. And in case of the death, removal, resignation, or necessary absence of the governor from the Territory, the secretary shall have, and he is hereby authorized and required to execute and perform, all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of thirteen members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall consist of twenty-six members possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue one year. An apportionment shall be made as nearly equal as practicable, among the several counties, for the election of the council and representatives, giving to each section of the Territory representation in the ratio of its population, Indians excepted, as nearly as may be. And the said members of the council and house of representatives shall reside in and be inhabitants of the district for which they may be elected. Previous to the first election, the governor of the Territory shall cause the census or enumeration of the inhabitants of the several

counties in the Territory to be taken, and made by the sheriffs of the said counties, respectively, unless the same shall have been taken within three months previous to the third day of July next, and returns thereof made by said sheriffs to the governor. The first election shall be held at such time and place, and be conducted in such manner, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts are entitled under this act. The number of persons authorized to be elected having the greatest number of votes in each of the said counties or districts for the council, shall be declared by the said governor to be duly elected to the said council; and the person or persons having the greatest number of votes for the house of representatives, equal to the number to which each county may be entitled, shall also be declared by the governor to be duly elected: *Provided*, The governor shall order a new election when there is a tie between two or more persons voted for, to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place, and on such day as he shall appoint; but thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties to the council and house of representatives, according to population, shall be prescribed by law, as well as the day of the annual commencement of the session of the said legislative assembly; but no session in any year shall exceed the term of seventy-five days.

SEC. 5. *And be it further enacted*, That every free white male citizen of the United States, above the age of twenty-one years, who shall have been an inhabitant of said Territory at the time of its organization, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters at all subsequent elections shall be such as shall be determined by the legislative assembly: *Provided*, That the right of suffrage shall be exercised only by citizens of the United States.

SEC. 6. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws of the governor and legislative assembly shall be submitted to, and if disapproved by the Congress of the United States, the same shall be null and of no effect.

SEC. 7. *And be it further enacted*, That all township officers, and all county officers, except judicial officers, justices of the peace, sheriffs, and clerks of courts, shall be elected by the people, in such manner as is now prescribed by the laws of the Territory of Wisconsin, or as may, after the first election, be provided by the governor and legislative assembly of Iowa Territory. The governor shall nominate, and by and with the advice and consent of the legislative council, shall appoint all judicial officers, justices of the peace, sheriffs, and the militia officers, except those of the staff, and all civil officers not herein provided for. Vacancies occurring in the recess of the council shall be filled by appointments from the governor, which shall expire at the end of the next session of the legislative assembly; but the said governor may appoint, in the first instance, the aforesaid officers, who shall hold their offices until the end of the next session of the said legislative assembly.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold, or be appointed to, any office created, or the salary and emoluments of which shall have been increased, whilst he was a member, during the term for which he shall have been elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, or any of its officers, except as a militia officer, shall be a member of the said council or house of representatives, or shall hold any office under the government of the said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of the said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice, and two associate judges, any two of whom shall be a quorum, and who shall hold a term at the seat

of government of the said Territory annually, and they shall hold their offices during the term of four years. The said Territory shall be divided into three judicial districts; and a district court or courts shall be held in each of the three districts, by one of the judges of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointment, respectively, reside in the districts which shall be assigned to them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts, and of the justices of the peace, shall be as limited by law: *Provided, however*, That justices of the peace shall not have jurisdiction of any matter of controversy, when the title or boundaries of land may be in dispute, or where the debt or sum claimed exceeds fifty dollars. And the said supreme and district courts, respectively, shall possess a chancery as well as common-law jurisdiction. Each district court shall appoint its clerk, who shall keep his office at the place where the court may be held, and the said clerks shall also be registers in chancery; and any vacancy in said office of clerk happening in the vacation of said court, may be filled by the judge of said district, which appointment shall continue until the next term of said court. And writs of error, bills of exception, and appeals in chancery causes, shall be allowed in all cases, from the final decisions of the said district courts to the supreme court under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court may appoint its own clerk, and every clerk shall hold his office at the pleasure of the court by which he shall have been appointed. And writs of error and appeals from the final decision of the said supreme court shall be allowed and taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, shall exceed one thousand dollars. And each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States, as is vested in the circuit and district courts of the United States. And the first six days of every term of the said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws. And writs of error and appeals from the final decisions of the said courts, in all such cases, shall be made to the supreme court of the Territory, in the same manner as in other cases. The said clerks shall receive in all such cases the same fees which the clerk of the district courts of Wisconsin Territory now receives for similar services.

SEC. 10. *And be it further enacted*, That there shall be an attorney for the said Territory appointed, who shall continue in office four years, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Wisconsin. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, who shall execute all process issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States. He shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory or Wisconssn; and shall, in addition, be paid the sum of two hundred dollars annually, as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief justice, and associate judges, attorney, and marshal, shall be nominated, and by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively, take an oath or affirmation, before some judge or justice of the peace, in the existing Territory of Wisconsin, duly commissioned and qualified to administer an oath or affirmation, or before the Chief Justice, or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and for the faithful discharge of the duties of their respective offices, which said oaths, when so taken, shall be certified by the person before whom the same shall have been taken, and such certificate shall be received and recorded by

the said secretary among the executive proceedings. And, afterwards, the chief justice and associate judges, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the Territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and, afterwards, the like oath or affirmation, shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs. The said chief justice and associate judges shall each receive an annual salary of fifteen hundred dollars. The secretary shall receive an annual salary of twelve hundred dollars. The said salaries shall be paid quarter-yearly at the Treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day, during their attendance at the sessions thereof; and three dollars each for every twenty miles' travel, in going to and returning from the said sessions, estimated according to the nearest usually-travelled route. There shall be appropriated, annually, the sum of three hundred and fifty dollars, to be expended by the governor to defray the contingent expenses of the Territory; and there shall also be appropriated, annually, a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the Secretary of the Territory shall annually account to the Secretary of the Treasury of the United States, for the manner in which the aforesaid sum shall have been expended.

SEC. 12. *And be it further enacted*, That the inhabitants of the said Territory shall be entitled to all the rights, privileges, and immunities heretofore granted and secured to the Territory of Wisconsin and to its inhabitants, and the existing laws of the Territory of Wisconsin shall be extended over said Territory, so far as the same be not incompatible with the provisions of this act, subject, nevertheless, to be altered, modified, or repealed, by the governor and legislative assembly of the said Territory of Iowa; and further, the laws of the United States are hereby extended over, and shall be in force in said Territory, so far as the same, or any provision thereof, may be applicable.

SEC. 13. *And be it further enacted*, That the legislative assembly of the Territory of Iowa shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct; and at said session, or as soon thereafter as may by them be deemed expedient, the said governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory, at such place as they may deem eligible, which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly. And the sum of twenty thousand dollars, out of any money in the treasury not otherwise appropriated, is hereby granted to the said Territory of Iowa, which shall be applied by the governor and legislative assembly thereof to defray the expenses of erecting public buildings at the seat of government.

SEC. 14. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve for the term of two years, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as have been granted to the Delegates from the several Territories of the United States to the said House of Representatives. The first election shall be held at such time and place or places, and be conducted in such manner, as the governor shall appoint and direct. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given to the person so elected.

SEC. 15. *And be it further enacted*, That all suits, process, and proceedings, and all indictments and informations, which shall be undetermined on the third day of July next, in the district courts of Wisconsin Territory, west of the Mississippi River, shall be transferred to be heard, tried, prosecuted, and determined in the district courts hereby established, which may include the said counties.

SEC. 16. *And be it further enacted*, That all justices of the peace, constables, sheriffs, and all other executive and judicial officers, who shall be in office on the third day of July next, in that portion of the present Territory of Wisconsin which will then, by this act, become the Territory of Iowa, shall be, and are hereby, authorized and required to continue to exercise and perform the duties of their respective offices, as officers of the Territory of Iowa, temporarily and until they, or others, shall be duly appointed to fill their places by the territorial government of Iowa, in the manner herein directed: *Provided*, That no officer shall hold or continue in office, by virtue of this provision, over twelve months from the said third day of July next.

SEC. 17. *And be it further enacted*, That all causes which shall have been or may be removed from the courts held by the present Territory of Wisconsin, in the counties west of the Mississippi River, by appeal or otherwise, into the supreme court for the Territory of Wisconsin, and which shall be undetermined therein on the third day of July next, shall be certified by the clerk of the said supreme court, and transferred to the supreme court of said Territory of Iowa, there to be proceeded in to final determination, in the same manner that they might have been in the said supreme court of the Territory of Wisconsin.

SEC. 18. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated, out of any money in the treasury not otherwise appropriated, to be expended, by and under the direction of the governor of said Territory of Iowa, in the purchase of a library, to be kept at the seat of government, for the accommodation of the governor, legislative assembly, judges, secretary, marshal, and attorney of said Territory, and such other persons as the governor and legislative assembly shall direct.

SEC. 19. *And be it further enacted*, That, from and after the day named in this act for the organization of the Territory of Iowa, the term of the members of the council and house of representatives of the Territory of Wisconsin shall be deemed to have expired, and an entirely new organization of the council and house of representatives of the Territory of Wisconsin, as constituted by this act, shall take place, as follows: As soon as practicable after the passage of this act, the governor of the Territory of Wisconsin shall apportion the thirteen members of the council and twenty-six members of the house of representatives among the several counties or districts comprised within said Territory, according to their population, as nearly as may be, (Indians excepted.) The first election shall be held at such time as the governor shall appoint and direct; and shall be conducted, and returns thereof made, in all respects, according to the provisions of the laws of said Territory, and the governor shall declare the persons having the greatest number of votes to be elected, and shall order a new election when there is a tie between two or more persons voted for, to supply the vacancy made by such tie. The persons thus elected shall meet at Madison, the seat of government, on such day as he shall appoint, but thereafter the apportioning of the representation in the several counties to the council and house of representatives according to population, the day of their election, and the day for the commencement of the session of the legislative assembly, shall be prescribed by law.

SEC. 20. *And be it further enacted*, That temporarily, and until otherwise provided by law of the legislative assembly, the governor of the Territory of Iowa may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times for holding courts in the several counties in each district, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges and alter the times of holding the courts, or any of them.

APPROVED, June 12, 1838.

THE ENABLING ACT FOR THE STATE OF IOWA—1845.*

[See "Florida," pages 331-332.]

SUPPLEMENTARY ENABLING ACT FOR IOWA—1845.

[28TH CONGRESS, 2D SESSION.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws of the United States, which are not locally inapplicable, shall have the same force and effect within the State of Iowa as elsewhere within the United States.

SEC. 2. *And be it further enacted,* That the said State shall be one district, and be called the district of Iowa; and a district court shall be held therein, to consist of one judge, who shall reside in the said district, and be called a district judge. He shall hold, at the seat of government of the said State, two sessions of the said district court annually, on the first Monday in January, and he shall, in all things, have and exercise the same jurisdiction and powers which were by law given to the judge of the Kentucky district, under an act entitled "An act to establish the judicial courts of the United States." He shall appoint a clerk for the said district, who shall reside and keep the records of the said court at the place of holding the same; and shall receive, for the services performed by him, the same fees to which the clerk of the Kentucky district is by law entitled for similar services.

SEC. 3. *And be it further enacted,* That there shall be allowed to the judge of the said district court the annual compensation of fifteen hundred dollars, to commence from the date of his appointment, to be paid quarterly, at the Treasury of the United States.

SEC. 4. *And be it further enacted,* That there shall be appointed in the said district a person, learned in the law, to act as attorney for the United States; who shall, in addition to his stated fees, be paid annually by the United States two hundred dollars, as a full compensation for all extra services; the said payment to be made quarterly, at the Treasury of the United States.

SEC. 5. *And be it further enacted,* That a marshal shall be appointed for the said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, as are prescribed and allowed to marshals in other districts; and shall, moreover, be entitled to the sum of two hundred dollars annually, as a compensation for all extra services.

SEC. 6. *And be it further enacted,* That in lieu of the propositions submitted to the Congress of the United States, by an ordinance passed on the first day of November, eighteen hundred and forty-four, by the convention of delegates at Iowa City, assembled for the purpose of making a constitution for the State of Iowa, which are hereby rejected, the following propositions be, and the same are hereby, offered to the legislature of the State of Iowa, for their acceptance or rejection; which if accepted, under the authority conferred on the said legislature by the convention which framed the constitution of the said State, shall be obligatory upon the United States.†

First. That section numbered sixteen in every township of the public lands, and, where such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State for the use of schools.

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* One act of Congress, approved March 3, 1845, provided for the admission of the States of Iowa and Florida into the Union. The boundaries of Iowa, as fixed by this act, were not acceptable to the people, who refused their assent by a vote (under the provisions of the fourth section) of 7,235 for and 7,656 against.

† These propositions were accepted by an act of the general assembly of the State of Iowa January 15, 1849.

Second. That the seventy-two sections of land set apart and reserved for the use and support of a university, by an act of Congress approved on the twentieth day of July, eighteen hundred and forty, entitled "An act granting two townships of land for the use of the university in the Territory of Iowa," are hereby granted and conveyed to the State, to be appropriated solely to the use and support of such university, in such manner as the legislature may prescribe.

Third. That five entire sections of land, to be selected and located under the direction of the legislature, in legal divisions of not less than one quarter-section, from any of the unappropriated lands belonging to the United States within the said State, are hereby granted to the State for the purpose of completing the public buildings of the said State, or for the erection of public buildings at the seat of government of the said State, as the legislature may determine and direct.

Fourth. That all salt springs within the State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to the said State for its use; the same to be selected by the legislature thereof, within one year after the admission of said State, and the same, when so selected, to be used on such terms, conditions, and regulations as the legislature of the State shall direct: *Provided*, That no salt spring, the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to any individual or individuals, shall, by this section, be granted to said State: *And provided also*, That the general assembly shall never lease or sell the same, at any one time, for a longer period than ten years, without the consent of Congress.

Fifth. That 5 per cent. of the net proceeds of sales of all public lands lying within the said State, which have been or shall be sold by Congress, from and after the admission of said State, after deducting all the expenses incident to the same, shall be appropriated for making public roads and canals within the said State, as the legislature may direct: *Provided*, That the five foregoing propositions herein offered are on the condition that the legislature of the said State, by virtue of the powers conferred upon it by the convention which framed the constitution of the said State, shall provide by an ordinance, irrevocable without the consent of the United States, that the said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona-fide* purchasers thereof; and that no tax shall be imposed on lands the property of the United States; and that in no case shall non-resident proprietors be taxed higher than residents; and that the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt from any tax laid by order or under the authority of the State, whether for State, county, township, or any other purpose, for the term of three years from and after the date of the patents, respectively.

APPROVED, March 3, 1845.

ACT DEFINING THE BOUNDARIES OF IOWA—1846.*

[TWENTY-NINTH CONGRESS, FIRST SESSION.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following shall be, and they are hereby, declared to be the boundaries of the State of Iowa, in lieu of those prescribed by the

* This legislation was to meet the wishes of the people of Iowa, who had rejected the boundaries previously defined by Congress in the act approved March 3, 1845.



second section of the act of the third of March, eighteen hundred and forty-five, entitled "An act for the admission of the States of Iowa and Florida into the Union," viz: Beginning in the middle of the main channel of the Mississippi River, at a point due east of the middle of the mouth of the main channel of the Des Moines River; thence up the middle of the main channel of the said Des Moines River to a point on said river where the northern boundary-line of the State of Missouri, as established by the constitution of that State adopted June twelfth, eighteen hundred and twenty, crosses the said middle of the main channel of the said Des Moines River; thence westwardly, along the said northern boundary-line of the State of Missouri as established at the time aforesaid, until an extension of said line intersect the middle of the main channel of the Missouri River; thence up the middle of the main channel of the said Missouri River to a point opposite the middle of the main channel of the Big Sioux River, according to Nicollet's map; thence up the main channel of the said Big Sioux River, according to said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude; thence east, along said parallel of forty-three degrees and thirty minutes, until said parallel intersect the middle of the main channel of the Mississippi River; thence down the middle of the main channel of said Mississippi River to the place of beginning.

SEC. 2. *And be it further enacted,* That the question which has heretofore been the subject-matter of controversy and dispute between the State of Missouri and the Territory of Iowa, respecting the precise location of the northern boundary-line of the State of Missouri, shall be, and the same is hereby, referred to the Supreme Court of the United States for adjudication and settlement, in accordance with the act of the legislature of Missouri, approved March twenty-five, eighteen hundred and forty-five, and the memorial of the council and house of representatives of the Territory of Iowa, approved January seventeen, eighteen hundred and forty-six, by which both parties have agreed to "the commencement and speedy determination of such suit as may be necessary to procure a final decision by the Supreme Court of the United States upon the true location of the northern boundary of that State;" and the said Supreme Court is hereby invested with all the power and authority necessary to the performance of the duty imposed by this section.

SEC. 3. *And be it further enacted,* That, until the next census and apportionment shall be made, the State of Iowa shall be entitled to two Representatives in the House of Representatives of the United States.

SEC. 4. *And be it further enacted,* That so much of the act of the third of March, eighteen hundred and forty-five, entitled "An act for the admission of the States of Iowa and Florida into the Union," relating to the said State of Iowa, as is inconsistent with the provisions of this act, be, and the same is hereby, repealed.

APPROVED, August 4, 1846.

CONSTITUTION OF IOWA—1846.*

We, the people of the State of Iowa, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of those blessings, do ordain and establish a free and independent government, by the name of the State of Iowa, the boundaries whereof shall be as follows:

Beginning in the middle of the main channel of the Mississippi River, at a point due east of the middle of the mouth of the main channel of the Des Moines River; thence up the middle of the main channel of the said Des Moines River to a point on said river where the northern boundary-line of the State of Missouri, as established by the constitution of the State adopted June 12, 1820, crosses the said middle of the main channel of the said Des Moines River; thence westwardly, along the said northern boundary-line of the State of Missouri as established at the time

* This constitution was adopted at a convention which met at Iowa City May 4, 1846, and completed its labors May 19, 1846. It was submitted to the people of Iowa and ratified August 3, 1846, receiving 9,492 votes against 9,036 votes.

aforesaid, until an extension of said line intersects the middle of the main channel of the Missouri River; thence up the middle of the main channel of the said Missouri River to a point opposite the middle of the main channel of the Big Sioux River, according to Nicollet's map; thence up the main channel of the said Big Sioux River, according to said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude; thence east, along said parallel of forty-three degrees and thirty minutes, until said parallel intersects the middle of the main channel of the Mississippi River; thence down the middle of the main channel of the said Mississippi River to the place of beginning.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All men are, by nature, free and equal, and have certain unalienable rights; among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same whenever the public good may require it.

SEC. 3. The general assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or the maintenance of any minister or ministry.

SEC. 4. No religious test shall be required as a qualification for any office or public trust, and no person shall be deprived of any of his rights, privileges, or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion; and any party to any judicial proceeding shall have the right to use as a witness, or take testimony of, any other person not disqualified on account of interest, who may be cognizant of any fact material to the case; and parties to suits may be witnesses, as provided by law.

SEC. 5. Any citizen of this State who may hereafter be engaged either directly or indirectly in a duel, either as principal or accessory before the fact, shall forever be disqualified from holding any office under the constitution and laws of this State.

SEC. 6. All laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen or class of citizens privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

SEC. 7. Every person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech, or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury, and if it appear to the jury that the matter charged as libellous was true, and was published with good motives and justifiable ends, the party shall be acquitted.

SEC. 8. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

SEC. 9. The right of trial by jury shall remain inviolate; but the general assembly may authorize trial by a jury of a less number than twelve men in inferior courts; but no person shall be deprived of life, liberty, or property, without due process of law.

SEC. 10. In all criminal prosecutions, and in cases involving the life or liberty of an individual, the accused shall have a right to a speedy and public trial by an impartial jury; to be informed of the accusation against him, and to have a copy of the same when demanded; to be confronted with the witnesses against him, to have compulsory process for his own witnesses; and to have the assistance of counsel.

SEC. 11. All offences less than elony, and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, shall be tried summarily before a justice of the peace, or other officer authorized by law, on information under oath, without indictment or the intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher criminal offence, unless on presentment or indictment by a grand jury, except in cases arising in the Army or Navy, or in the militia when in active service, in time of war or public danger.

SEC. 12. No person shall, after acquittal, be tried for the same offence. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, where the proof is evident or the presumption great.

SEC. 13. The writ of *habeas corpus* shall not be suspended or refused when application is made as required by law, unless, in case of rebellion or invasion, the public safety may require it.

SEC. 14. The military shall be subordinate to the civil power. No standing army shall be kept up by the State in time of peace; and in time of war no appropriation for a standing army shall be for a longer time than two years.

SEC. 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

SEC. 16. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

SEC. 17. Excessive bail shall not be required, excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.

SEC. 18. Private property shall not be taken for public use without just compensation first being made, or secured, to be paid to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.

SEC. 19. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in case of fraud; and no person shall be imprisoned for a militia-fine in time of peace.

SEC. 20. The people have the right freely to assemble together to counsel for the common good; to make known their opinions to their representatives, and to petition for a redress of grievances.

SEC. 21. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

SEC. 22. Foreigners who are, or may hereafter become, residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and descent of property as native-born citizens.

SEC. 23. There shall be no slavery in this State; nor shall there be involuntary servitude, unless for the punishment of crime.

SEC. 24. No lease or grant of agricultural lands, reserving any rent, or service of any kind, shall be valid for a longer period than twenty years.

SEC. 25. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ARTICLE II.

RIGHT OF SUFFRAGE.

SECTION 1. Every white male citizen of the United States of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county in which he claims his vote sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

SEC. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

SEC. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

SEC. 4. No person in the military, naval, or marine service of the United States shall be considered a resident of this State by being stationed in any garrison, barrack, or military or naval place or station within this State.

SEC. 5. No idiot or insane person, or person convicted of any infamous crime, shall be entitled to the privilege of an elector.

SEC. 6. All elections by the people shall be by ballot.

ARTICLE III.

OF THE DISTRIBUTION OF POWERS.

The powers of the government of Iowa shall be divided into three separate departments, the legislative, the executive, and the judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives; and the style of every law shall be: "*Be it enacted by the general assembly of the State of Iowa.*"

SEC. 2. The sessions of the general assembly shall be biennial, and shall commence on the second Monday in January next ensuing the election of its members; unless the governor of the State shall, in the mean time, convene the general assembly by proclamation.

SEC. 3. The members of the house of representatives shall be chosen every second year, by the qualified electors of their respective districts, on the second Tuesday in October, except the years of the presidential election, when the election shall be on the Tuesday next after the first Monday in November; and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified.

SEC. 4. No person shall be a member of the house of representatives who shall not have attained the age of twenty-one years, be a free white male citizen of the United States, and have been an inhabitant of this State one year next preceding his election, and at the time of his election have had an actual residence of sixty days in the county or district he may have been chosen to represent.

SEC. 5. Senators shall be chosen for the term of four years, at the same time and place as representatives; they shall be twenty-five years of age, and possess the qualifications of representatives as to residence and citizenship.

SEC. 6. The number of senators shall not be less than one-third, nor more than one-half of the representative body; and shall be so classified by lot that one class, being as nearly one-half as possible, shall be elected every two years. When the number of senators is increased, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal in numbers as practicable.

SEC. 7. Each house shall choose its own officers, and judge of the qualification, election, and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

SEC. 8. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

SEC. 9. Each house shall sit upon its own adjournment, keep a journal of its proceedings and publish the same, determine its rules of proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same offense; and shall have all other powers necessary for a branch of the general assembly of a free and independent State.

SEC. 10. Every member of the general assembly shall have the liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journals; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals.

SEC. 11. Senators and representatives, in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the general assembly, and in going to and returning from the same.

SEC. 12. When vacancies occur in either house, the governor, or the person exercising the functions of governor, shall issue writs of election to fill such vacancies.

SEC. 13. The doors of each house shall be open, except on such occasions as in the opinion of the house may require secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting

SEC. 15. Bills may originate in either house, and may be amended, altered, or rejected by the other; and every bill, having passed both houses, shall be signed by the speaker and president of their respective houses.

SEC. 16. Every bill which shall have passed the general assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter the same upon their journal, and proceed to consider it; if, after such reconsideration, it again pass both houses, by yeas and nays, by a majority of two-thirds of the members of each house, it shall become a law, notwithstanding the governor's objections. If any bill shall not be returned within three days after it shall have been presented to him, (Sunday excepted,) the same shall be a law in like manner as if he had signed it, unless the general assembly, by adjournment, prevent such return. Any bill submitted to the governor for his approval during the last three days of a session of the general assembly shall be deposited by him in the office of the secretary of state within thirty days after the adjournment, with his approval if approved by him, and with his objections if he disapproves thereof.

SEC. 17. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the general assembly, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.

SEC. 18. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at every regular session of the general assembly.

SEC. 19. The house of representatives shall have the sole power of impeachment, and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 20. The governor, judges of the supreme and district courts, and other State officers, shall be liable to impeachment for any misdemeanor or malfeasance in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanors and malfeasance in office, in such manner as the general assembly may provide.

SEC. 21. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people.

SEC. 22. No person holding any lucrative office under the United States or this State, or any other power, shall be eligible to hold a seat in the general assembly; but offices in the militia, to which there is no annual salary, or the office of justice of the peace, or postmasters, whose compensation does not exceed one hundred dollars per annum, or notary public, shall not be deemed lucrative.

SEC. 23. No person who may hereafter be a collector or holder of public moneys

shall have a seat in either house of the general assembly, or be eligible to hold any office of trust or profit in this State, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

SEC. 24. No money shall be drawn from the treasury but in consequence of appropriations made by law.

SEC. 25. Each member of the first general assembly under this constitution shall receive three dollars per diem while in session; and the further sum of three dollars for every twenty miles' travel in going to and returning from the place where such session is held, by the nearest traveled route; after which they shall receive such compensation as shall be fixed by law; but no general assembly shall have the power to increase the compensation of its own members. And when convened in extra session they shall receive the same milage and per diem compensation as fixed by law for the regular session, and none other.

SEC. 26. No law of the general assembly, passed at a regular session, of a public nature, shall take effect until the 4th day of July next after the passage thereof. Laws passed at a special session shall take effect ninety days after the adjournment of the general assembly by which they were passed. If the general assembly shall deem any law of immediate importance, they may provide that the same shall take effect by publication in newspapers in the State.

SEC. 27. No divorce shall be granted by the general assembly.

SEC. 28. No lottery shall be authorized by this State; nor shall the sale of lottery-tickets be allowed.

SEC. 29. Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

SEC. 30. The general assembly shall not pass local or special laws in the following cases:

For the assessment and collection of taxes for State, county, or road purposes;
For laying out, opening, and working roads or highways;
For changing the names of persons;
For the incorporation of cities and towns;
For vacating roads, town-plats, streets, alleys, or public squares;
For locating or changing county seats.

In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State; and no law changing the boundary-lines of any county shall have effect until, upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for or against it.

SEC. 31. No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered or the contract entered into; nor shall any money be paid on any claim, the subject-matter of which shall not have been provided for by preëxisting laws, and no public money or property shall be appropriated for local or private purposes, unless such appropriation, compensation, or claim be allowed by two-thirds of the members elected to each branch of the general assembly.

SEC. 32. Members of the general assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United States, and the constitution of the State of Iowa, and that I will faithfully discharge the duties of senator, [or representative, as the case may be,] according to the best of my ability." And members of the general assembly are hereby empowered to administer to each other the oath or affirmation.

SEC. 33. The general assembly shall, in the years 1859, 1863, 1865, 1867, 1869, and 1875, and every ten years thereafter, cause an enumeration to be made of all the white inhabitants of the State.

SEC. 34. The number of senators shall, at the next session following each period of

making such enumeration, and the next session following each United States census, be fixed by law, and apportioned among the several counties according to the number of white inhabitants in each.

SEC. 35. The senate shall not consist of more than fifty members, nor the house of representatives of more than one hundred; and they shall be apportioned among the several counties and representative districts of the State according to the number of white inhabitants in each, upon ratios to be fixed by law. But no representative district shall contain more than four organized counties, and shall be entitled to one representative. Every county and district, which shall have a number of inhabitants equal to one-half of the ratio fixed by law, shall be entitled to one representative; and any one county containing, in addition to the ratio fixed by law, one-half of that number or more, shall be entitled to one additional representative. No floating district shall hereafter be formed.

SEC. 36. At its first session under this constitution, and at every subsequent regular session, the general assembly shall fix the ratio of representation, and also form into representative districts those counties which will not be entitled singly to a representative.

SEC. 37. When a congressional, senatorial, or representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a congressional, senatorial, or representative district.

SEC. 38. In all elections by the general assembly, the members thereof shall vote *viva voce;* and the votes shall be entered on the journal.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of Iowa.

SEC. 2. The governor shall be elected by the qualified electors at the time and place of voting for members of the general assembly, and shall hold his office two years from the time of his installation, and until his successor is elected and qualified.

SEC. 3. There shall be a lieutenant-governor, who shall hold his office two years, and be elected at the same time with the governor. In voting for governor and lieutenant-governor, the electors shall designate for whom they vote as governor, and for whom as lieutenant-governor. The return of every election for governor and lieutenant-governor shall be sealed up and transmitted to the seat of government of the State, directed to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the general assembly.

SEC. 4. The persons respectively having the highest number of votes for governor and lieutenant-governor shall be declared duly elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the general assembly shall by joint vote forthwith proceed to elect one of said persons governor or lieutenant-governor, as the case may be.

SEC. 5. Contested elections for governor or lieutenant-governor shall be determined by the general assembly in such manner as may be prescribed by law.

SEC. 6. No person shall be eligible to the office of governor or lieutenant-governor who shall not have been a citizen of the United States, and a resident of this State for two years next preceding the election, and attained the age of thirty years at the time of said election.

SEC. 7. The governor shall be commander-in-chief of the militia and the army and navy of this State.

SEC. 8. He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

SEC. 9. He shall take care that the laws are faithfully executed.



SEC. 10. When any office shall from any cause become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the general assembly, or at the next election by the people.

SEC. 11. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purpose for which they shall have been convened.

SEC. 12. He shall communicate by message to the general assembly, at every regular session, the condition of the State, and recommend such matters as he shall deem expedient.

SEC. 13. In case of disagreement between the two houses with respect to the time of adjournment, the governor shall have power to adjourn the general assembly to such time as he may think proper; but no such adjournment shall be beyond the time fixed for the regular meeting of the next general assembly.

SEC. 14. No person shall, while holding any office under the authority of the United States, or this State, execute the office of governor, except as hereinafter expressly provided.

SEC. 15. The official term of the governor and lieutenant-governor shall commence on the second Monday of January next after their election, and continue for two years, and until their successors are elected and qualified. The lieutenant-governor, while acting as governor, shall receive the same pay as provided for governor; and, while presiding in the senate, shall receive as compensation therefor the same mileage and double the *per diem* pay provided for a senator, and none other.

SEC. 16. The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the general assembly at its next meeting, when the general assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the general assembly, at its next meeting, each case of reprieve, commutation, or pardon granted, and the reasons therefor; and also all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted.

SEC. 17. In case of the death, impeachment, resignation, removal from office, or other disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant-governor.

SEC. 18. The lieutenant-governor shall be president of the senate, but shall only vote when the senate is equally divided; and in case of his absence or impeachment, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

SEC. 19. If the lieutenant-governor, while acting as governor, shall be impeached, displaced, resign, or die, or otherwise become incapable of performing the duties of the office, the president *pro tempore* of the senate shall act as governor until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 20. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called the Great Seal of the State of Iowa.

SEC. 21. All grants and commissions shall be in the name and by the authority of the people of the State of Iowa, sealed with the great seal of the State, signed by the governor, and countersigned by the secretary of state.

SEC. 22. The secretary of state, auditor of state, and treasurer of state shall be elected by the qualified electors, who shall continue in office two years, and until their successors are elected and qualified, and perform such duties as may be required by law.

ARTICLE V.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power shall be vested in a supreme court, district courts, and such other courts, inferior to the supreme court, as the general assembly may from time to time establish.

SEC. 2. The supreme court shall consist of three judges, two of whom shall constitute a quorum to hold court.

SEC. 3. The judges of the supreme court shall be elected by the qualified voters of the State, and shall hold their court at such time and place as the general assembly may prescribe. The supreme judges so elected shall be classified so that one judge shall go out of office every two years, and the judge holding the shortest term of office under such classification shall be chief justice of the court during his term, and so on in rotation. After the expiration of their terms of office, under such classification, the term of each judge of the supreme court shall be six years, and until his successor shall have been elected and qualified. The judges of the supreme court shall be ineligible to any other office in the State during the term for which they shall have been elected.

SEC. 4. The supreme court shall have appellate jurisdiction only in all cases in chancery, and shall constitute a court for the correction of errors at law, under such restrictions as the general assembly may by law prescribe; and shall have power to issue all writs and process necessary to secure justice to parties, and exercise a supervisory control over all inferior judicial tribunals throughout the State.

SEC. 5. The district court shall consist of a single judge, who shall be elected by the qualified voters of the district in which he resides. The judge of the district court shall hold his office for the term of four years, and until his successor shall have been elected and qualified, and shall be ineligible to any other office, except that of supreme judge, during the term for which he was elected.

SEC. 6. The district court shall be a court of law and equity, which shall be distinct and separate jurisdictions, and have jurisdiction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.

SEC. 7. The judges of the supreme and district courts shall be conservators of the peace throughout the State.

SEC. 8. The style of all processes shall be, "The State of Iowa," and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 9. The salary of each judge of the supreme court shall be two thousand dollars per annum, and that of each district judge sixteen hundred dollars per annum, until the year 1860; after which time they shall severally receive such compensation as the general assembly may by law prescribe; which compensation shall not be increased or diminished during the term for which they shall have been elected.

SEC. 10. The State shall be divided into eleven judicial districts; and after the year 1860, the general assembly may reorganize the judicial districts, and increase or diminish the number of districts, or the number of judges of the said court, and may increase the number of judges of the supreme court; but such increase or diminution shall not be more than one district, or one judge of either court, at any one session; and no reorganization of the districts, or diminution of the judges, shall have the effect of removing a judge from office. Such reorganization of the districts, or any change in the boundaries thereof, or increase or diminution of the number of the judges, shall take place every four years thereafter, if necessary, and at no other time.

SEC. 11. The judges of the supreme and district courts shall be chosen at the general election; and the term of office of each judge shall commence on the first day of January next after his election.

SEC. 12. The general assembly shall provide by law for the election of an attorney-general by the people, whose term of office shall be two years, and until his successor is elected.

SEC. 13. The qualified electors of each judicial district shall, at the time of election of district judge, elect a district attorney, who shall be a resident of the district for which he is elected, and shall hold his office for the term of four years, and until his successor shall have been elected and qualified.

SEC. 14. It shall be the duty of the general assembly to provide for the carrying into effect of this article, and to provide for a general system of practice in all the courts of the State.

ARTICLE VI.

MILITIA.

SECTION 1. The militia of this State shall be composed of all able-bodied white male citizens between the ages of eighteen and forty-five years, except such as are or may hereafter be exempt by the laws of the United Statss, or of this State, and shall be armed, equipped, and trained, as the general assembly may provide by law.

SEC. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace: *Provided*, That such person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

SEC. 3. All commissioned officers of the militia (staff-officers excepted) shall be elected by the persons liable to perform military duty, and shall be commissioned by the governor.

ARTICLE VII.

STATE DEBTS.

SECTION. 1. The credit of the State shall not in any manner be given or loaned to, or in aid of, any individual, association, or corporation; and the State shall never assume or become responsible for the debts or liabilities of any individual, association, or corporation.

SEC. 2. The State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly, or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

SEC. 3. All losses to the permanent, school, or university fund of this State, which shall have been occasioned by the defalcation, mismanagement, or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the State. The amount so audited shall be a permanent funded debt against the State, in favor of the respective fund sustaining the loss, upon which not less than 6 per cent. annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized by the second section of this article.

SEC. 4. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the debts so contracted shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

SEC. 5. Except the debts hereinbefore specified in this article, no debt shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within twenty years from the time of the contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast

for or against it at such election; and all the money raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the State, for three months preceding the election at which it is submitted to the people.

SEC. 6. The legislature may at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time forbid the contracting of any further debt or liability under such law; but the tax imposed by such law, in proportion to the debt or liability which may have been contracted in pursuance thereof, shall remain in force and be irrepealable, and be annually collected, until the principal and interest are fully paid.

SEC. 7. Every law which imposes, continues, or revives a tax shall distinctly state the tax, and the object to which it is applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

ARTICLE VIII.

CORPORATIONS.

SECTION 1. No corporation shall be created by special laws; but the general assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

SEC. 2. The property of all corporations for pecuniary profit, now existing or hereafter created, shall be subject to taxation, the same as that of individuals.

SEC. 3. The State shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the State.

SEC. 4. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

SEC. 5. No act of the general assembly, authorizing or creating corporations or associations with banking powers, nor amendments thereto, shall take effect, or in any manner be in force, until the same shall have been submitted separately to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

SEC. 6. Subject to the provisions of the foregoing section, the general assembly may also provide for the establishment of a State bank, with branches.

SEC. 7. If a State bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each other's liabilities upon all notes, bills, and other issues intended to circulate as money.

SEC. 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of state, of all bills or paper-credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the State treasurer, in United States stocks, or in interest-paying stocks of States in good credit and standing, to be rated at 10 per cent. below their average value in the city of New York, for the thirty days next preceding their deposit; and in case of a depreciation of any portion of said stocks, to the amount of 10 per cent. on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks, and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer, and to whom.

SEC. 9. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities, accruing while he or she remains such stockholder.

SEC. 10. In case of the insolvency of any banking-institution, the bill-holders shall have a preference over its other creditors.

SEC. 11. The suspension of specie payments by banking-institutions shall never be permitted or sanctioned.

SEC. 12. Subject to the provisions of this article, the general assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities, by a vote of two-thirds of each branch of the general assembly; and no exclusive privileges, except as in this article provided, shall ever be granted.

ARTICLE IX.

EDUCATION AND SCHOOLS.

SECTION 1. The educational interest of the State, to include common schools and other educational institutions, shall be under the management of a board of education, which shall consist of the lieutenant-governor, who shall be the presiding officer of the board, and have the casting vote in case of a tie, and one member to be elected from each judicial district in the State.

SEC. 2. No person shall be eligible as a member of said board who shall not have attained the age of twenty-five years, and been one year a citizen of the State.

SEC. 3. One member of said board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years, and until his successor is elected and qualified. After the first election under this constitution, the board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years; and one-half of the board shall be chosen every two years thereafter.

SEC. 4. The first session of the board of education shall be held at the seat of government, on the first Monday of December, after their election; after which the general assembly may fix the time and place of meeting.

SEC. 5. The session of the board shall be limited to twenty days, and but one session shall be held in any one year, except on extraordinary occasions, when, upon the recommendation of two-thirds of the board, the governor may order a special session.

SEC. 6. The board of education shall appoint a secretary, who shall be the executive officer of the board, and perform such duties as may be imposed upon him by the board and the laws of the State. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the general assembly.

SEC. 7. All rules and regulations made by the board shall be published and distributed to the several counties, townships, and school districts, as may be provided for by the board, and when so passed, published, and distributed, they shall have the force and effect of law.

SEC. 8. The board of education shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools, and other educational institutions, that are instituted, to receive aid from the school or university fund of this State; but all acts, rules, and regulations of said board may be altered, amended, or repealed by the general assembly; and when so altered, amended, or repealed, they shall not be reënacted by the board of education.

SEC. 9. The governor of the State shall be, *ex officio*, a member of said board.

SEC. 10. The board shall have power to levy taxes, or make appropriations of money. The contingent expenses shall be provided for by the general assembly.

SEC. 11. The State university shall be established at one place without branches at any other place, and the university-fund shall be applied to that institution, and no other.

SEC. 12. The members of the board of education shall provide for the education of all the youths of the State, through a system of common schools. And such school shall be organized and kept in each school-district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school, may be deprived of their portion of the school-fund.

SEC. 13. The members of the board of education shall each receive the same per diem during the time of their session, and mileage going to and returning therefrom, as members of the general assembly.

SEC. 14. A majority of the board shall constitute a quorum for the transaction of business; but no rule, regulation, or law for the regulation and government of common schools or other educational institutions shall pass without the concurrence of a majority of all the members of the board, which shall be expressed by the yeas and nays on the final passage. The style of all the acts of the board shall be, "*Be it enacted by the board of education of the State of Iowa.*"

SEC. 15. At any time after the year 1863, the general assembly shall have power to abolish or reorganize said board of education, and provide for the educational interest of the State in any other manner that to them shall seem best and proper.

SCHOOL-FUNDS AND SCHOOL-LANDS.

SECTION 1. The educational and school funds and lands shall be under the control and management of the general assembly of this State.

SEC. 2. The university lands, and the proceeds thereof, and all moneys belonging to said fund shall be a permanent fund for the sole use of the State university. The interest arising from the same shall be annually appropriated for the support and benefit of said university.

SEC. 3. The general assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State for the support of schools, which shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved in the year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may have been granted by Congress, on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the general assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

SEC. 4. The money which may have been or shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school-districts of said counties, in proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the board of education shall from time to time provide.

SEC. 5. The general assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may thereafter be, reserved or granted by the United States, or any person or persons, to this State, for the use of a university, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of the university, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the general assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

SEC. 6. The financial agents of school-funds shall be the same that by law receive and control the State and county revenue for other civil purposes, under such regulations as may be provided by law.

SEC. 7. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the age of five and twenty-one years, in such manner as may be provided by the general assembly.

ARTICLE X.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this constitution may be proposed in either house of the general assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice, and if in the general assembly so next chosen as aforesaid such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people in such manner and at such time as the general assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the general assembly voting thereon, such amendment or amendments shall become a part of the constitution of this State.

SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

SEC. 3. At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year thereafter, and also at such time as the general assembly may, by law, provide, the question, "Shall there be a convention to revise the constitution and amend the same?" shall be decided by the electors qualified to vote for members of the general assembly; and in case a majority of the electors so qualified, voting at such election for and against such proposition, shall decide in favor of a convention for such purpose, the general assembly, at its next session, shall provide by law for the election of delegates to such convention.

ARTICLE XI.

MISCELLANEOUS.

SECTION 1. The jurisdiction of justices of the peace shall extend to all civil cases (except cases in chancery, and cases where the question of title to any real estate may arise) where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding three hundred dollars.

SEC. 2. No new county shall be hereafter created containing less than four hundred and thirty-two square miles; nor shall the territory of any organized county be reduced below that area, except the county of Worth, and the counties west of it, on the Minnesota line, may be organized without additional territory.

SEC. 3. No county, or other political or municipal corporation, shall be allowed to become indebted in any manner, or for any purpose, to an amount in the aggregate exceeding 5 per centum on the value of the taxable property within such county or corporation, to be ascertained by the last State and county tax-lists previous to the incurring of such indebtedness.

SEC. 4. The boundaries of the State may be enlarged, with the consent of Congress and the general assembly.

SEC. 5. Every person elected or appointed to any office shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States and of this State, and also an oath of office.

SEC. 6. In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office shall hold until the next general election, and until their successors are elected and qualified.

SEC. 7. The general assembly shall not locate any of the public lands which have been or may be granted by Congress to this State, and the location of which may be given to the general assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant so exempted shall not exceed three hundred and twenty acres.

SEC. 8. The seat of government is hereby permanently established, as now fixed by law, at the city of Des Moines, in the county of Polk, and the State university at Iowa City, in the county of Johnson.

ARTICLE XII.

SCHEDULE.

SECTION 1. This constitution shall be the supreme law of the State, and any law inconsistent therewith shall be void. The general assembly shall pass all laws necessary to carry this constitution into effect.

SEC. 2. All laws now in force and not inconsistent with this constitution, shall remain in force until they shall expire or be repealed.

SEC. 3. All indictments, prosecutions, suits, pleas, plaints, process, and other proceedings pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, *certiorari*, and injunctions shall be carried on in the several courts, in the same manner as now provided by law, and all offences, misdemeanors, and crimes that may have been committed before the taking effect of this constitution, shall be subject to indictment, trial, and punishment, in the same manner as they would have been had not this constitution been made.

SEC. 4. All fines, penalties, or forfeitures due, or to become due or accruing to the State, or to any county therein, or to the school-fund, shall inure to the State, county, or school-fund in the manner prescribed by law.

SEC. 5. All bonds executed to the State, or to any officer in his official capacity, shall remain in force and inure to the use of those concerned.

SEC. 6. The first election under this constitution shall be held on the second Tuesday in October, in the year one thousand eight hundred and fifty-seven, at which time the electors of the State shall elect the governor and lieutenant-governor. There shall also be elected at such election the successors of such State senators as were elected at the August election, in the year one thousand eight hundred and fifty-four, and members of the house of representatives, who shall be elected in accordance with the act of apportionment enacted by the seventh general assembly of the State.

SEC. 7. The first election for secretary, auditor, and treasurer of state, attorney-general, district judges, members of the board of education, district attorneys, members of Congress, and such State officers as shall be elected at the April election, in the year one thousand eight hundred and fifty-seven, except the superintendent of public instruction, and such county officers as were elected at the August election, in the year one thousand eight hundred and fifty-six, except prosecuting attorneys, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-eight: *Provided*, That the time for which any district judge or any other State or county officer was elected at the April election in 1858 shall not extend beyond the time fixed for filling like offices at the October election.

SEC. 8. The first election for judges of the supreme court, and such county officers as shall be elected at the August election, in the year one thousand eight hundred and fifty-seven, shall be held on the second Tuesday of October, in the year one thousand eight hundred and fifty-nine.

SEC. 9. The first regular session of the general assembly shall be held in the year one thousand eight hundred and fifty-eight, commencing on the second Monday of January of said year.

SEC. 10. Senators elected at the August election, in the year one thousand eight hundred and fifty-six, shall continue in office until the second Tuesday of October, in the year one thousand eight hundred and fifty-nine, at which time their successors shall be elected as may be prescribed by law.

SEC. 11. Every person elected by popular vote, by a vote of the general assembly, or who may hold office by executive appointment, which office is continued by this constitution, and every person who shall be so elected or appointed to any such office, before the taking effect of this constitution, (except as in this constitution otherwise provided,) shall continue in office until the term for which such person has been or may be elected or appointed shall expire; but no such person shall continue in office, after taking effect of this constitution, for a longer period than the term of such office in this constitution prescribed.

SEC. 12. The general assembly, at the first session under this constitution, shall district the State into eleven judicial districts, for district-court purposes, and shall also provide for the apportionment of the members of the general assembly, in accordance with the provisions of this constitution.

SEC. 13. The foregoing constitution shall be submitted to the electors of the State at the August election, in the year one thousand eight hundred and fifty-seven, in the several election-districts in this State. The ballots at such election shall be written or printed as follows: Those in favor of the constitution, "New constitution—Yes;" those against the constitution, "New constitution—No." The election shall be conducted in the same manner as the general elections of the State, and the poll-books shall be returned and canvassed as provided in the twenty-fifth chapter of the code, and abstracts shall be forwarded to the secretary of state, which abstracts shall be canvassed in the manner provided for the canvass of State officers. And if it shall appear that a majority of all the votes cast at such election for and against this constitution are in favor of the same, the governor shall immediately issue his proclamation stating that fact, and such constitution shall be the constitution of the State of Iowa, and shall take effect from and after the publication of said proclamation.

SEC. 14. At the same election that this constitution is submitted to the people for its adoption or rejection, a proposition to amend the same by striking out the word "white," from the article on the "right of suffrage," shall be separately submitted to the electors of this State for adoption or rejection, in manner following, viz: A separate ballot may be given by every person having a right to vote at said election, to be deposited in a separate box. And those given for the adoption of such proposition shall have the words, "Shall the word 'white' be stricken out of the article on the 'right of suffrage?' Yes;" and those given against the proposition shall have the words, "Shall the word 'white' be stricken out of the article on the 'right of suffrage?' No." And if at said election the number of ballots cast in favor of said proposition shall be equal to a majority of those cast for and against this constitution, then said word "white" shall be stricken from said article and be no part thereof.

SEC. 15. Until otherwise directed by law, the county of Mills shall be in and a part of the sixth judicial district of this State.

ACT ADMITTING THE STATE OF IOWA—1846.

[TWENTY-NINTH CONGRESS, SECOND SESSION.]

Whereas the people of the Territory of Iowa did, on the eighteenth day of May, anno Domini eighteen hundred and forty-six, by a convention of delegates called and assembled for that purpose, form for themselves a constitution and State government, which constitution is republican in its character and features, and said convention has asked admission of the said Territory into the Union as a State, on an equal footing with the original States, in obedience to "An act for the admission of the States of Iowa and Florida into the Union," approved March third, eighteen hundred and forty-five, and "An act to define the boundaries of the State of Iowa, and to repeal so much of the act of the third of March, one thousand eight hundred

and forty-five, as relates to the boundaries of Iowa," which said last act was approved August fourth, anno Domini eighteen hundred and forty-six: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Iowa shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatsoever.

SEC. 2. *And be it further enacted,* That all the provisions of "An act supplemental to the act for the admission of the States of Iowa and Florida into the Union," approved March third, eighteen hundred and forty-five, be, and the same are hereby, declared to continue and remain in full force as applicable to the State of Iowa, as hereby admitted and received into the Union.

APPROVED, December 28, 1846.

CONSTITUTION OF IOWA—1857.*

We, the people of the State of Iowa, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of those blessings, do ordain and establish a free and independent government, by the name of the State of Iowa, the boundaries whereof shall be as follows:

Beginning in the middle of the main channel of the Mississippi River, at a point due east of the middle of the mouth of the main channel of the Des Moines River; thence up the middle of the main channel of the said Des Moines River to a point on said river where the northern boundary-line of the State of Missouri, as established by the constitution of that State adopted June 12, 1820, crosses the said middle of the main channel of the said Des Moines River; thence westwardly, along the said northern boundary-line of the State of Missouri, as established at the time aforesaid, until an extension of said line intersects the middle of the main channel of the Missouri River; thence up the middle of the main channel of the said Missouri River to a point opposite the middle of the main channel of the Big Sioux River, according to Nicollet's map; thence up the main channel of the said Big Sioux River, according to said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude; thence east, along said parallel of forty-three degrees and thirty minutes, until said parallel intersects the middle of the main channel of the Mississippi River; thence down the middle of the main channel of the said Mississippi River to the place of beginning.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All men are, by nature, free and equal, and have certain unalienable rights; among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same whenever the public good may require it.

SEC. 3. The general assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled

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* This constitution was adopted at a convention which met at Iowa City January 19, 1857, and completed its labors March 6, 1857. It was submitted to the people of Iowa and ratified August 3, 1857, receiving 40,311 votes against 38,681 votes.

The word "white" was stricken out of Articles II, III, and IV by an act of the legislatures of 1867 and 1868, submitted to the people and ratified, receiving 105,384 votes against 81,384 votes.

to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or the maintenance of any minister or ministry.

SEC. 4. No religious test shall be required as a qualification for any office or public trust, and no person shall be deprived of any of his rights, privileges, or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion; and any party to any judicial proceeding shall have the right to use as a witness, or take testimony of, any other person not disqualified on account of interest, who may be cognizant of any fact material to the case; and parties to suits may be witnesses, as provided by law.

SEC. 5. Any citizen of this State who may hereafter be engaged either directly or indirectly in a duel, either as principal or accessory before the fact, shall forever be disqualified from holding any office under the constitution and laws of this State.

SEC. 6. All laws of a general nature shall have a uniform operation. The general assembly shall not grant to any citizen or class of citizens privileges or immunities which upon the same terms shall not equally belong to all citizens.

SEC. 7. Every person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech, or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury, and if it appear to the jury that the matter charged as libellous was true, and was published with good motives and justifiable ends, the party shall be acquitted.

SEC. 8. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

SEC. 9. The right of trial by jury shall remain inviolate; but the general assembly may authorize trial by a jury of a less number than twelve men in inferior courts; but no person shall be deprived of life, liberty, or property without due process of law.

SEC. 10. In all criminal prosecutions, and in cases involving the life or liberty of an individual, the accused shall have a right to a speedy and public trial by an impartial jury; to be informed of the accusation against him, and to have a copy of the same when demanded; to be confronted with the witnesses against him, to have compulsory process for his own witnesses, and to have the assistance of counsel.

SEC. 11. All offences less than felony, and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, shall be tried summarily before a justice of the peace, or other officer authorized by law, on information under oath, without indictment or the intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher criminal offence, unless on presentment or indictment by a grand jury, except in cases arising in the Army or Navy, or in the militia when in actual service, in time of war or public danger.

SEC. 12. No person shall, after acquittal, be tried for the same offence. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences where the proof is evident or the presumption great.

SEC. 13. The writ of *habeas corpus* shall not be suspended or refused when application is made as required by law, unless, in case of rebellion or invasion, the public safety may require it.

SEC. 14. The military shall be subordinate to the civil power. No standing army shall be kept up by the State in the time of peace; and in time of war no appropriation for a standing army shall be for a longer time than two years.

SEC. 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

SEC. 16. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

SEC. 17. Excessive bail shall not be required, excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.

SEC. 18. Private property shall not be taken for public use without just compensation first being made, or secured, to be paid to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.

SEC. 19. No person shall be imprisoned for debt in any civil action on mesne or final process, unless in case of fraud; and no person shall be imprisoned for a militia fine in time of peace.

SEC. 20. The people have the right freely to assemble together to counsel for the common good, to make known their opinions to their representatives, and to petition for a redress of grievances.

SEC. 21. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts shall ever be passed.

SEC. 22. Foreigners who are, or may hereafter become residents of this State, shall enjoy the same rights, in respect to the possession, enjoyment, and descent of property, as native-born citizens.

SEC. 23. There shall be no slavery in this State; nor shall there be involuntary servitude, unless for the punishment of crime.

SEC. 24. No lease or grant of agricultural lands, reserving any rent, or service of any kind, shall be valid for a longer period than twenty years.

SEC. 25. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ARTICLE II.

RIGHT OF SUFFRAGE.

SECTION 1. Every [white*] male citizen of the United States of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county in which he claims his vote sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

SEC. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

SEC. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

SEC. 4. No person in the military, naval, or marine service of the United States shall be considered a resident of this State by being stationed in any garrison, barrack, or military or naval place or station within this State.

SEC. 5. No idiot or insane person, or persons convicted of any infamous crime, shall be entitled to the privilege of an elector.

SEC. 6. All elections by the people shall be by ballot.

ARTICLE III.

OF THE DISTRIBUTION OF POWERS.

The powers of the government of Iowa shall be divided into three separate departments, the legislative, the executive, and the judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

* Stricken out in 1868.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives; and the style of every law shall be, "*Be it enacted by the general assembly of the State of Iowa.*"

SEC. 2. The sessions of the general assembly shall be biennial, and shall commence on the second Monday in January next ensuing the election of its members; unless the governor of the State shall, in the mean time, convene the general assembly by proclamation.

SEC. 3. The members of the house of representatives shall be chosen every second year by the qualified electors of their respective districts, on the second Tuesday in October, except the years of the presidential election, when the election shall be on the Tuesday next after the first Monday in November; and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified.

SEC. 4. No person shall be a member of the house of representatives who shall not have attained the age of twenty-one years, be a free [white*] male citizen of the United States, and shall have been an inhabitant of this State one year next preceding his election, and at the time of his election shall have had an actual residence of sixty days in the county or district he may have been chosen to represent.

SEC. 5. Senators shall be chosen for the term of four years, at the same time and place as representatives; they shall be twenty-five years of age, and possess the qualifications of representatives as to residence and citizenship.

SEC. 6. The number of senators shall not be less than one-third, nor more than one-half of the representative body; and shall be so classified by lot that one class, being as nearly one-half as possible, shall be elected every two years. When the number of senators is increased, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal in numbers as practicable.

SEC. 7. Each house shall choose its own officers, and judge of the qualification, election, and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

SEC. 8. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

SEC. 9. Each house shall sit upon its own adjournment, keep a journal of its proceedings, and publish the same; determine its rules of proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same offence; and shall have all other powers necessary for a branch of the general assembly of a free and independent State.

SEC. 10. Every member of the general assembly shall have the liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journals; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals.

SEC. 11. Senators and representatives, in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the general assembly, and in going to and returning from the same.

SEC. 12. When vacancies occur in either house, the governor, or the person exercising the functions of governor, shall issue writs of election to fill such vacancies.

SEC. 13. The doors of each house shall be open, except on such occasions as in the opinion of the house may require secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 15. Bills may originate in either house, and may be amended, altered, or rejected by the other; and every bill having passed both houses shall be signed by the speaker and president of their respective houses.

* Stricken out in 1868.

SEC. 16. Every bill which shall have passed the general assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, which shall enter the same upon their journal, and proceed to consider it; if, after such reconsideration, it again pass both houses by ayes and nays, by a majority of two-thirds of the members of each house, it shall become a law, notwithstanding the governor's objections. If any bill shall not be returned within three days after it shall have been presented to him, (Sunday excepted,) the same shall be a law in like manner as if he had signed it, unless the general assembly, by adjournment, prevent such return. Any bill submitted to the governor for his approval during the last three days of a session of the general assembly shall be deposited by him in the office of the secretary of state within thirty days after the adjournment, with his approval if approved by him, and with his objections if he disapproves thereof.

SEC. 17. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the general assembly, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.

SEC. 18. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at every regular session of the general assembly.

SEC. 19. The house of representatives shall have the sole power of impeachment, and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 20. The governor, judges of the supreme and district courts, and other State officers, shall be liable to impeachment for any misdemeanor or malfeasance in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanors and malfeasance in office, in such manner as the general assembly may provide.

SEC. 21. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by elections by the people.

SEC. 22. No person holding any lucrative office under the United States or this State, or any other power, shall be eligible to hold a seat in the general assembly; but offices in the militia, to which there is no annual salary, or the office of justice of the peace, or postmaster, whose compensation does not exceed one hundred dollars per annum, or notary public, shall not be deemed lucrative.

SEC. 23. No person who may hereafter be a collector or holder of public moneys shall have a seat in either house of the general assembly, or be eligible to hold any office of trust or profit in this State, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

SEC. 24. No money shall be drawn from the treasury but in consequence of appropriations made by law.

SEC. 25. Each member of the first general assembly under this constitution shall receive three dollars per diem while in session; and the further sum of three dollars for every twenty miles' travel in going to and returning from the place where such session is held, by the nearest traveled route; after which they shall receive such compensation as shall be fixed by law; but no general assembly shall have the power to increase the compensation of its own members. And when convened in extra session they shall receive the same mileage and per diem compensation as fixed by law for the regular session, and none other.

SEC. 26. No law of the general assembly, passed at a regular session, of a public nature, shall take effect until the 4th day of July next after the passage thereof. Laws passed at a special session shall take effect ninety days after the adjournment of the general assembly by which they were passed. If the general assembly shall

deem any law of immediate importance, they may provide that the same shall take effect by publication in newspapers in the State.

SEC. 27. No divorce shall be granted by the general assembly.

SEC. 28. No lottery shall be authorized by this State; nor shall the sale of lottery-tickets be allowed.

SEC. 29. Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

SEC. 30. The general assembly shall not pass local or special laws in the following cases:

For the assessment and collection of taxes for State, county, or road purposes;
For laying out, opening, and working roads or highways;
For changing the names of persons;
For the incorporation of cities and towns;
For vacating roads, town-plats, streets, alleys, or public squares;
For locating or changing county seats.

In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State; and no law changing the boundary-lines of any county shall have effect until, upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for or against it.

SEC. 31. No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor shall any money be paid on any claim, the subject-matter of which shall not have been provided for by preëxisting laws, and no public money or property shall be appropriated for local or private purposes, unless such appropriation, compensation, or claim be allowed by two-thirds of the members elected to each branch of the general assembly.

SEC. 32. Members of the general assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United States, and the constitution of the State of Iowa, and that I will faithfully discharge the duties of senator [or representative, as the case may be] according to the best of my ability." And members of the general assembly are hereby empowered to administer to each other the oath or affirmation.

SEC. 33. The general assembly shall, in the years 1859, 1863, 1865, 1867, 1869, and 1875, and every ten years thereafter, cause an enumeration to be made of all the white inhabitants of the State.

SEC. 34. The number of senators shall, at the next session following each period of making such enumeration, and the next session following each United States census, be fixed by law, and apportioned among the several counties according to the number of white inhabitants in each.

SEC. 35. The senate shall not consist of more than fifty members, nor the house of representatives of more than one hundred; and they shall be apportioned among the several counties and representative districts of the State according to the number of white inhabitants in each, upon ratios to be fixed by law. But no representative district shall contain more than four organized counties, and shall be entitled to one representative. Every county and district which shall have a number of inhabitants equal to one-half of the ratio fixed by law shall be entitled to one representative; and any one county containing in addition to the ratio fixed by law one-half of that number or more shall be entitled to one additional representative. No floating district shall hereafter be formed.

SEC. 36. At its first session under this constitution, and at every subsequent regular session, the general assembly shall fix the ratio of representation, and also form into representative districts those counties which will not be entitled singly to a representative.

SEC. 37. When a congressional, senatorial, or representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a congressional, senatorial, or representative district.

SEC. 38. In all elections by the general assembly, the members thereof shall vote *viva voce;* and the votes shall be entered on the journal.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of Iowa.

SEC. 2. The governor shall be elected by the qualified electors at the time and place of voting for members of the general assembly, and shall hold his office two years from the time of his installation, and until his successor is elected and qualified.

SEC. 3. There shall be a lieutenant-governor, who shall hold his office two years, and be elected at the same time with the governor. In voting for governor and lieutenant-governor, the electors shall designate for whom they vote as governor, and for whom as lieutenant-governor. The return of every election for governor and lieutenant-governor shall be sealed up and transmitted to the seat of government of the State, directed to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the general assembly.

SEC. 4. The persons respectively having the highest number of votes for governor and lieutenant-governor shall be declared duly elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the general assembly shall by joint vote forthwith proceed to elect one of said persons governor, or lieutenant-governor, as the case may be.

SEC. 5. Contested elections for governor or lieutenant-governor shall be determined by the general assembly in such manner as may be prescribed by law.

SEC. 6. No person shall be eligible to the office of governor or lieutenant-governor who shall not have been a citizen of the United States and a resident of this State for two years next preceding the election, and attained the age of thirty years at the time of said election.

SEC. 7. The governor shall be commander-in-chief of the militia and the army and navy of this State.

SEC. 8. He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

SEC. 9. He shall take care that the laws are faithfully executed.

SEC. 10. When any office shall from any cause become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the general assembly or at the next election by the people.

SEC. 11. He may, on extraordinary occasions, convene the general assembly, by proclamation, and shall state to both houses, when assembled, the purpose for which they shall have been convened.

SEC. 12. He shall communicate by message to the general assembly, at every regular session, the condition of the State, and recommend such matters as he shall deem expedient.

SEC. 13. In case of disagreement between the two houses with respect to the time of adjournment, the governor shall have power to adjourn the general assembly to such time as he may think proper; but no such adjournment shall be beyond the time fixed for the regular meeting of the next general assembly.

SEC. 14. No person shall, while holding any office under the authority of the United States or this State, execute the office of governor, except as hereinafter expressly provided.

SEC. 15. The official term of the governor and lieutenant-governor shall commence on the second Monday of January next after their election, and continue for two years, and until their successors are elected and qualified. The lieutenant-governor, while acting as governor, shall receive the same pay as provided for governor; and while presiding in the senate shall receive, as compensation therefor, the same mileage and double the per-diem pay provided for a senator, and none other.

SEC. 16. The governor shall have power to grant reprieves, commutations, and pardons after conviction, for all offences except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the general assembly at its next meeting, when the general assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the general assembly at its next meeting each case of reprieve, commutation, or pardon granted, and the reasons therefor; and also all persons in whose favor remission of fines and forfeitures shall have been made and the several amounts remitted.

SEC. 17. In case of the death, impeachment, resignation, removal from office, or other disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant-governor.

SEC. 18. The lieutenant-governor shall be president of the senate, but shall only vote when the senate is equally divided; and in case of his absence or impeachment, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

SEC. 19. If the lieutenant-governor, while acting as governor, shall be impeached, displaced, resign, or die, or otherwise become incapable of performing the duties of the office, the president *pro tempore* of the senate shall act as governor until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 20. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called the Great Seal of the State of Iowa.

SEC. 21. All grants and commissions shall be in the name and by the authority of the people of the State of Iowa, sealed with the great seal of the State, signed by the governor, and countersigned by the secretary of state.

SEC. 22. The secretary of state, auditor of state, and treasurer of state shall be elected by the qualified electors, who shall continue in office two years, and until their successors are elected and qualified; and perform such duties as may be required by law.

ARTICLE V.

JUDICIAL DEPARTMENT.

SECTION. 1. The judicial power shall be vested in a supreme court, district courts, and such other courts, inferior to the supreme court, as the general assembly may from time to time establish.

SEC. 2. The supreme court shall consist of three judges, two of whom shall constitute a quorum to hold court.

SEC. 3. The judges of the supreme court shall be elected by the qualified voters of the State, and shall hold their court at such time and place as the general assembly may prescribe. The supreme judges so elected shall be classified so that one judge shall go out of office every two years; and the judge holding the shortest term of office under such classification shall be chief justice of the court during his term, and so on in rotation. After the expiration of their terms of office, under such classification, the term of each judge of the supreme court shall be six years, and until his successor

shall have been elected and qualified. The judges of the supreme court shall be ineligible to any other office in the State during the term for which they shall have been elected.

SEC. 4. The supreme court shall have appellate jurisdiction only in all cases in chancery, and shall constitute a court for the correction of errors at law, under such restrictions as the general assembly may, by law, prescribe; and shall have power to issue all writs and process necessary to secure justice to parties, and exercise a supervisory control over all inferior judicial tribunals throughout the State.

SEC. 5. The district court shall consist of a single judge, who shall be elected by the qualified voters of the district in which he resides. The judge of the district court shall hold his office for the term of four years, and until his successor shall have been elected and qualified; and shall be ineligible to any other office, except that of supreme judge, during the term for which he was elected.

SEC. 6. The district court shall be a court of law and equity, which shall be distinct and separate jurisdictions, and have jurisdiction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.

SEC. 7. The judges of the supreme and district courts shall be conservators of the peace throughout the same.

SEC. 8. The style of all process shall be, "The State of Iowa;" and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 9. The salary of each judge of the supreme court shall be two thousand dollars per annum; and that of each district judge, sixteen hundred dollars per annum, until the year 1860; after which time they shall severally receive such compensation as the general assembly may by law prescribe; which compensation shall not be increased or diminished during the term for which they shall have been elected.

SEC. 10. The State shall be divided into eleven judicial districts; and, after the year 1860, the general assembly may reorganize the judicial districts, and increase or diminish the number of districts, or the number of judges of the said court, and may increase the number of judges of the supreme court; but such increase or diminution shall not be more than one district, or one judge of either court, at any one session; and no reorganization of the districts, or diminution of the judges, shall have the effect of removing a judge from office. Such reorganization of the districts, or any change in the boundaries thereof, or increase or diminution of the number of the judges shall take place every four years thereafter, if necessary, and at no other time.

SEC. 11. The judges of the supreme and district courts shall be chosen at the general election; and the term of office of each judge shall commence on the first day of January next after his election.

SEC. 12. The general assembly shall provide, by law, for the election of an attorney-general by the people, whose term of office shall be two years, and until his successor is elected.

SEC. 13. The qualified electors of each judicial district shall, at the time of election of district judge, elect a district attorney, who shall be a resident of the district for which he is elected, and shall hold his office for the term of four years, and until his successor shall have been elected and qualified.

SEC. 14. It shall be the duty of the general assembly to provide for the carrying into effect of this article, and to provide for a general system of practice in all the courts of the State.

ARTICLE VI.

MILITIA.

SECTION 1. The militia of this State shall be composed of all able-bodied [white*] male citizens between the ages of eighteen and forty-five years, except such as are or may hereafter be exempt by the laws of the United States, or of this State, and shall be armed, equipped, and trained as the general assembly may provide by law.

* Stricken out in 1868.

SEC. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace: *Provided*, That such person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

SEC. 3. All commissioned officers of the militia (staff-officers excepted) shall be elected by the persons liable to perform military duty, and shall be commissioned by the governor.

ARTICLE VII.

STATE DEBTS.

SECTION 1. The credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation; and the State shall never assume or become responsible for the debts or liabilities of any individual, association, or corporation.

SEC. 2. The State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly, or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

SEC. 3. All losses to the permanent, school, or university fund of this State, which shall have been occasioned by the defalcation, mismanagement, or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the State. The amount so audited shall be a permanent funded debt against the State in favor of the respective fund sustaining the loss, upon which not less than 6 per cent. annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized by the second section of this article.

SEC. 4. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the debts so contracted shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

SEC. 5. Except the debts hereinbefore specified in this article, no debt shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal of such debt, within twenty years from the time of the contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for or against it at such election; and all the money raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the State, for three months preceding the election at which it is submitted to the people.

SEC. 6. The legislature may at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time forbid the contracting of any further debt or liability under such law; but the tax imposed by such law, in proportion to the debt or liability which may have been contracted in pursuance thereof, shall remain in force and be irrepealable, and be annually collected, until the principal and interest are fully paid.

SEC. 7. Every law which imposes, continues, or revives a tax, shall distinctly state the tax and the object to which it is applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

ARTICLE VIII.

CORPORATIONS.

SECTION 1. No corporation shall be created by special laws; but the general assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

SEC. 2. The property of all corporations for pecuniary profit now existing, or hereafter created, shall be subject to taxation the same as that of individuals.

SEC. 3. The State shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the State.

SEC. 4. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

SEC. 5. No act of the general assembly, authorizing or creating corporations or associations with banking powers, nor amendments thereto, shall take effect, or in any manner be in force, until the same shall have been submitted separately to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

SEC. 6. Subject to the provisions of the foregoing section, the general assembly may also provide for the establishment of a State bank with branches.

SEC. 7. If a State bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each other's liabilities upon all notes, bills, and other issues intended to circulate as money.

SEC. 8. If a general banking-law shall be enacted, it shall provide for the registry and countersigning, by an officer of state, of all bills or paper-credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the State treasurer, in United States stock, or in interest-paying stocks of States in good credit and standing, to be rated at 10 per cent. below their average value in the city of New York, for the thirty days next preceding their deposit; and in case of a depreciation of any portion of said stocks, to the amount of 10 per cent. on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks, and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, and the time of any transfer, and to whom.

SEC. 9. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities accruing while he or she remains such stockholder.

SEC. 10. In case of the insolvency of any banking institution, the bill-holders shall have a preference over its other creditors.

SEC. 11. The suspension of specie payments by banking institutions shall never be permitted or sanctioned.

SEC. 12. Subject to the provisions of this article, the general assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities, by a vote of two-thirds of each branch of the general assembly; and no exclusive privileges, except as in this article provided, shall evei be granted.

ARTICLE IX.

EDUCATION AND SCHOOLS.

SECTION 1. The educational interest of the State, to include common schools and other educational institutions, shall be under the management of a board of education, which shall consist of the lieutenant-governor, who shall be the presiding officer of the board, and have the casting vote in case of a tie, and one member to be elected from each judicial district in the State.

SEC. 2. No person shall be eligible as a member of said board who shall not have attained the age of twenty-five years and been one year a citizen of the State.

SEC. 3. One member of said board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years and until his successor is elected and qualified. After the first election under this constitution, the board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years; and one-half of the board shall be chosen every two years thereafter.

SEC. 4. The first session of the board of education shall be held at the seat of government, on the first Monday of December, after their election; after which the general assembly may fix the time and place of meeting.

SEC. 5. The session of the board shall be limited to twenty days, and but one session shall be held in any one year, except on extraordinary occasions, when, upon the recommendation of two-thirds of the board, the governor may order a special session.

SEC. 6. The board of education shall appoint a secretary, who shall be the executive officer of the board, and perform such duties as may be imposed upon him by the board, and the laws of the State. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the general assembly.

SEC. 7. All rules and regulations made by the board shall be published and distributed to the several counties, townships, and school-districts, as may be provided for by the board, and when so passed, published, and distributed, they shall have the force and effect of law.

SEC. 8. The board of education shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools, and other educational institutions, that are instituted, to receive aid from the school or university fund of this State; but all acts, rules, and regulations of said board may be altered, amended, or repealed by the general assembly; and when so altered, amended, or repealed, they shall not be reënacted by the board of education.

SEC. 9. The governor of the State shall be, *ex officio*, a member of said board.

SEC. 10. The board shall have power to levy taxes, or make appropriations of money. The contingent expenses shall be provided for by the general assembly.

SEC. 11. The State University shall be established at one place, without branches at any other place, and the university-fund shall be applied to that institution, and no other.

SEC. 12. The members of the board of education shall provide for the education of all the youths of the State, through a system of common schools. And such schools shall be organized and kept in each school-district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school may be deprived of their portion of the school-fund.

SEC. 13. The members of the board of education shall each receive the same per diem during the time of their session, and mileage going to and returning therefrom, as members of the general assembly.

SEC. 14. The majority of the board shall constitute a quorum for the transaction of business; but no rule, regulation, or law for the regulation and government of common schools or other educational institutions shall pass without the concurrence of a majority of all the members of the board, which shall be expressed by the yeas and nays on the final passage. The style of all the acts of the board shall be, "*Be it enacted by the board of education of the State of Iowa.*"

SEC. 15. At any time after the year of 1863, the general assembly shall have power to abolish or reorganize said board of education, and provide for the educational interest of the State in any other manner that to them shall seem best and proper.

SCHOOL-FUNDS AND SCHOOL-LANDS.

SECTION 1. The educational and school funds and lands shall be under the control and management of the general assembly of this State.

SEC. 2. The university-lands, and the proceeds thereof, and all moneys belonging to said fund, shall be a permanent fund for the sole use of the State University. The interest arising from the same shall be annually appropriated for the support and benefit of said university.

SEC. 3. The general assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State for the support of schools, which shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved in the year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may have been granted by Congress, on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the general assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

SEC. 4. The money which may have been or shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school-districts of said counties, in proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the board of education shall from time to time provide.

SEC. 5. The general assembly shall take measures for the protection, improvement, or other disposition of such lands as have been or may thereafter be reserved or granted by the United States, or any person or persons, to this State, for the use of a university, and the funds accruing from the rents or sale of such lands, or from any other source, for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of the university, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the general assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

SEC. 6. The financial agents of school-funds shall be the same that by law receive and control the State and county revenue for other civil purposes, under such regulations as may be provided by law.

SEC. 7. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the age of five and twenty-one years, in such manner as may be provided by the general assembly.

ARTICLE X.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this constitution may be proposed in either house of the general assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice, and if in the general assembly so next chosen as aforesaid such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people in such manner and at such time as the general assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the general assembly voting thereon, such amendment or amendments shall become a part of the constitution of this State.

SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

SEC. 3. At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year thereafter, and also at such time as the general assembly may, by law, provide, the question, "Shall there be a convention to revise the constitution and amend the same?" shall be decided by the electors qualified to vote for members of the general assembly; and in case a majority of the electors so qualified, voting at such election for and against such proposition, shall decide in favor of a convention for such purpose, the general assembly, at its next session, shall provide by law for the election of delegates to such convention.

ARTICLE XI.

MISCELLANEOUS.

SECTION 1. The jurisdiction of justices of the peace shall extend to all civil cases (except cases in chancery, and cases where the question of title to any real estate may arise) where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding three hundred dollars.

SEC. 2. No new county shall be hereafter created containing less than four hundred and thirty-two square miles; nor shall the territory of any organized county be reduced below that area, except the county of Worth, and the counties west of it, on the Minnesota line, may be organized without additional territory.

SEC. 3. No county, or other political or municipal corporation, shall be allowed to become indebted in any manner, or for any purpose, to an amount in the aggregate exceeding 5 per centum on the value of the taxable property within such county or corporation—to be ascertained by the last State and county tax-lists, previous to the incurring of such indebtedness.

SEC. 4. The boundaries of the State may be enlarged, with the consent of Congress and the general assembly.

SEC. 5. Every person elected or appointed to any office shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State, and also an oath of office.

SEC. 6. In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office shall hold until the next general election, and until their successors are elected and qualified.

SEC. 7. The general assembly shall not locate any of the public lands which have been or may be granted by Congress to this State, and the location of which may be given to the general assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant so exempted shall not exceed three hundred and twenty acres.

SEC. 8. The seat of government is hereby permanently established, as now fixed by law, at the city of Des Moines, in the county of Polk, and the State University at Iowa City, in the county of Johnson.

ARTICLE XII.

SCHEDULE.

SECTION 1. This constitution shall be the supreme law of the State, and any law inconsistent therewith shall be void. The general assembly shall pass all laws necessary to carry this constitution into effect.

SEC. 2. All laws now in force, and not inconsistent with this constitution, shall remain in force until they shall expire or be repealed.

SEC. 3. All indictments, prosecutions, suits, pleas, plaints, process, and other pro-

ceedings pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, *certiorari*, and injunctions shall be carried on in the several courts, in the same manner as now provided by law, and all offences, misdemeanors, and crimes that may have been committed before the taking effect of this constitution, shall be subject to indictment, trial, and punishment, in the same manner as they would have been had not this constitution been made.

SEC. 4. All fines, penalties, or forfeitures due, or to become due or accruing to the State, or to any county therein, or to the school-fund, shall inure to the State, county, or school-fund, in the manner prescribed by law.

SEC. 5. All bonds executed to the State, or to any officer in his official capacity, shall remain in force and inure to the use of those concerned.

SEC. 6. The first election under this constitution shall be held on the second Tuesday in October, in the year one thousand eight hundred and fifty-seven, at which time the electors of the State shall elect the governor and lieutenant-governor. There shall also be elected at such election the successors of such State senators as were elected at the August election, in the year one thousand eight hundred and fifty-four, and members of the house of representatives, who shall be elected in accordance with the act of apportionment, enacted by the seventh general assembly of the State.

SEC. 7. The first election for secretary, auditor, and treasurer of state, attorney-general, district judges, members of the board of education, district attorneys, members of Congress, and such State officers as shall be elected at the April election, in the year one thousand eight hundred and fifty-seven, except the superintendent of public instruction, and such county officers as were elected at the August election, in the year one thousand eight hundred and fifty-six, except prosecuting attorneys, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-eight: *Provided*, That the time for which any district judge or any other State or county officer was elected at the April election in 1858 shall not extend beyond the time fixed for filling like offices at the October election.

SEC. 8. The first election for judges of the supreme court, and such county officers as shall be elected at the August election, in the year one thousand eight hundred and fifty-seven, shall be held on the second Tuesday of October, in the year one thousand eight hundred and fifty-nine.

SEC. 9. The first regular session of the general assembly shall be held in the year one thousand eight hundred and fifty-eight, commencing on the second Monday of January of said year.

SEC. 10. Senators elected at the August election, in the year one thousand eight hundred and fifty-six, shall continue in office until the second Tuesday of October, in the year one thousand eight hundred and fifty-nine, at which time their successors shall be elected as may be prescribed by law.

SEC. 11. Every person elected by popular vote, by a vote of the general assembly, or who may hold office by executive appointment, which office is continued by this constitution, and every person who shall be so elected or appointed to any such office, before the taking effect of this constitution, (except as in this constitution otherwise provided,) shall continue in office until the term for which such person has been or may be elected or appointed shall expire; but no such person shall continue in office, after taking effect of this constitution, for a longer period than the term of such office in this constitution prescribed.

SEC. 12. The general assembly, at the first session under this constitution, shall district the State into eleven judicial districts, for district-court purposes, and shall also provide for the apportionment of the members of the general assembly, in accordance with the provisions of this constitution.

SEC. 13. The foregoing constitution shall be submitted to the electors of the State at the August election, in the year one thousand eight hundred and fifty-seven, in the several election-districts in this State. The ballots at such election shall be written or printed as follows: Those in favor of the constitution, "New constitution—Yes;" those against the constitution, "New constitution—No." The election shall be conducted in the same manner as the general elections of the State, and the poll-books

shall be returned and canvassed as provided in the twenty-fifth chapter of the code, and abstracts shall be forwarded to the secretary of state, which abstracts shall be canvassed in the manner provided for the canvass of State officers. And if it shall appear that a majority of all the votes cast at such election, for and against this constitution, are in favor of the same, the governor shall immediately issue his proclamation stating that fact, and such constitution shall be the constitution of the State of Iowa, and shall take effect from and after the publication of said proclamation.

SEC. 14. At the same election that this constitution is submitted to the people for its adoption or rejection, a proposition to amend the same by striking out the word "white," from the article on the "Right of suffrage," shall be separately submitted to the electors of this State for adoption or rejection, in manner following, viz: A separate ballot may be given by every person having a right to vote at said election, to be deposited in a separate box. And those given for the adoption of such proposition shall have the words, "Shall the word 'white' be stricken out of the article on the 'Right of suffrage?' Yes." And those given against the proposition shall have the words, "Shall the word 'white' be stricken out of the article on the 'Right of suffrage?' No." And if at said election the number of ballots cast in favor of said proposition shall be equal to a majority of those cast for and against this constitution, then said word "white" shall be stricken from said article, and be no part thereof.

SEC. 15. Until otherwise directed by law, the county of Mills shall be in and a part of the sixth judicial district of this State.

Done in convention at Iowa City this fifth day of March, in the year of our Lord 1857, and of the independence of the United States the eighty-first.

FRANCIS SPRINGER, *President.*

Attest:

THOMAS J. SAUNDERS, *Secretary.*
C. N. BATES, *Assistant Secretary.*

KANSAS.

TREATY FOR THE CESSION WITH FRANCE—1803.

[See "Louisiana," pages 687–690.]

THE DISTRICT OF LOUISIANA—1804.

[See "Louisiana," pages 691–695.]

THE TERRITORY OF LOUISIANA—1805.

[See "Louisiana," pages 697–698.]

THE TERRITORY OF MISSOURI—1812.*

[See "Missouri," pages 1097–1101.]

TREATY OF CESSION WITH SPAIN—1848.

[See "California," pages 308–312.]

JOINT RESOLUTION ADMITTING THE STATE OF TEXAS—1845.†

[See "Texas," pages 1764–1765.]

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* After the admission of the State of Missouri, August 10, 1821, that part of the Territory of Missouri now in the State of Kansas had no distinct government.

† After the admission of the State of Texas, July 4, 1845, that part of the present State of Kansas south of the Arkansas River and west of 100° west longitude from Greenwich had no distinct government.

THE TERRITORIAL GOVERNMENT OF KANSAS—1854.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the territory of the United States included within the following limits, except such portions thereof as are hereinafter expressly exempted from the operations of this act, to wit, beginning at a point in the Missouri River, where the fortieth parallel of north latitude crosses the same; thence west on said parallel to the east boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence on said summit northward to the forty-ninth parallel of north latitude; thence east on said parallel to the western boundary of the Territory of Minnesota; thence southward on said boundary to the Missouri River; thence down the main channel of said river to the place of beginning, be, and the same is hereby, created into a temporary government by the name of the Territory of Nebraska; and when admitted as a State or States, the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission: *Provided,* That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States: *Provided further,* That nothing in this act contained shall be construed to impair the rights of person or property now pertaininig to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the Territory of Nebraska, until said tribe shall signify their assent to the President of the United States to be included within the said Territory of Nebraska, or to affect the authority of the Government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the Government to make if this act had never passed.

SEC. 2. *And be it further enacted,* That the executive power and authority in and over said Territory of Nebraska shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, and shall be commander-in-chief of the militia thereof. He may grant pardons and respites for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted,* That there shall be a secretary of said Territory who shall reside therein, and hold his office for five years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence semi-annually, on the first days of January and July in each year, to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, to be deposited in the libraries of Congress; and in case of the death, removal, resignation, or absence of the governor from the Territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor during

such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of thirteen members, having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of twenty-six members, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, in proportion to the increase of qualified voters: *Provided*, That the whole number shall never exceed thirty-nine. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the council and representatives, giving to each section of the Territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district or county or counties for which they may be elected, respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory to be taken by such persons and in such mode as the governor shall designate and appoint; and the persons so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts for members of the council shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house or representatives shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election; and the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

SEC. 5. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall be an actual resident of said Territory, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act: *And provided further*, That no officer, soldier, seaman, or marine, or other person in the Army or Navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote or hold office in said Territory, by reason of being in service therein.

SEC. 6. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering

with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the council and house of representatives of the said Territory shall, before it become a law, be presented to the governor of the Territory; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the assembly, by adjournment, prevents its return, in which case it shall not be a law.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory of Nebraska. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly; and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold, or be appointed to, any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years, and until their successor shall be appointed and qualified. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed and may be taken to the Supreme

Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; except only that in all cases involving title to slaves the said writs of error or appeals shall be allowed and decided by the said supreme court without regard to the value of the matter, property, or title in controversy; and except also that a writ of error or appeal shall also be allowed to the Supreme Court of the United States from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writ of *habeas corpus*, involving the question of personal freedom: *Provided*, That nothing herein contained shall be construed to apply to or affect the provisions to the "Act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelfth, seventeen hundred and ninety-three, and the "Act to amend and supplementary to the aforesaid act," approved September eighteen, eighteen hundred and fifty; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the circuit and district courts of the United States; and the said supreme and district courts of the said Territory, and the respective judges thereof, shall and may grant writs of *habeas corpus* in all cases in which the same are granted by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws, and writs of error and appeal in all such cases shall be made to the supreme court of said Territory, the same as in other cases. The said clerk shall receive in all such cases the same fees which the clerks of the district courts of Utah Territory now receive for similar services.

SEC. 10. *And be it further enacted*, That the provisions of an act entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelve, seventeen hundred and ninety-three, and the provisions of the act entitled "An act to amend and supplementary to the aforesaid act," approved September eighteen, eighteen hundred and fifty, be, and the same are hereby, declared to extend to and be in full force within the limits of said Territory of Nebraska.

SEC. 11. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Utah. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulation and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Utah, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 12. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney, and marshal shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice, or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificate shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and

associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and, afterwards. the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of two thousand five hundred dollars. The chief justice and associate justices shall each receive an annual salary of two thousand dollars. The secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly, from the dates of the respective appointments, at the Treasury of the United States; but no such payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually traveled route; and an additional allowance of three dollars shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, a sergeant-at-arms, and door-keeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day, during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislature annually, unless, on an extraordinary occasion, the governor shall think proper to call the legislature together. There shall be appropriated, annually, the usual sum, to be expended by the governor, to defray the contingent expenses of the Territory, including the salary of a clerk of the executive department; and there shall also be appropriated, annually, a sufficient sum to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the governor and secretary of the Territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall, semi-annually, account to the said Secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 13. *And be it further enacted*, That the legislative assembly of the Territory of Nebraska shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly.

SEC. 14. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives, but the Delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner as the governor shall appoint and direct; and at all subsequent elections the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the Constitution and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Nebraska as elsewhere

within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March sixth, eighteen hundred and twenty, which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of eighteen hundred and fifty, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of sixth March, eighteen hundred and twenty, either protecting, establishing, prohibiting, or abolishing slavery.

SEC. 15. *And be it further enacted*, That there shall hereafter be appropriated, as has been customary for the territorial governments, a sufficient amount to be expended under the direction of the said governor of the Territory of Nebraska, not exceeding the sums heretofore appropriated for similar objects, for the erection of suitable public buildings at the seat of government, and for the purchase of a library, to be kept at the seat of government for the use of the governor, legislative assembly, judges of the supreme court, secretary, marshal, and attorney of said Territory, and such other persons, and under such regulations, as shall be prescribed by law.

SEC. 16. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

SEC. 17. *And be it further enacted*, That, until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts; and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation, to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 18. *And be it further enacted*, That all officers to be appointed by the President, by and with the advice and consent of the Senate, for the Territory of Nebraska, who, by virtue of the provisions of any law now existing, or which may be enacted during the present Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security, at such time and place, and in such manner, as the Secretary of the Treasury may prescribe.

SEC. 19. *And be it further enacted*, That all that part of the Territory of the United States included within the following limits, except such portions thereof as are hereinafter expressly exempted from the operations of this act, to wit, beginning at a point on the western boundary of the State of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence following said boundary westward to the east boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning, be, and the same is hereby, created into a temporary government by the name of the Territory of Kansas; and when admitted as a State or States, the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Ter-

ritory of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the Territory of Kansas, until said tribe shall signify their assent to the President of the United States to be included within the said Territory of Kansas, or to affect the authority of the Government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the Government to make if this act had never passed.

SEC. 20. *And be it further enacted*, That the executive power and authority in and over said Territory of Kansas shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, and shall be commander-in-chief of the militia thereof. He may grant pardons and respites for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 21. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for five years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence semi-annually, on the first days of January and July in each year, to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, to be deposited in the libraries of Congress; and, in case of the death, removal, resignation, or absence of the governor from the Territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

SEC. 22. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of thirteen members, having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of twenty-six members, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, in proportion to the increase of qualified voters: *Provided*, That the whole number shall never exceed thirty-nine. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the council and representatives, giving to each section of the Territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district or county or counties for which they may be elected, respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory, to be taken by such persons and in such mode as the governor shall designate and appoint; and the persons so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places,

and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts for members of the council, shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election; and the person thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

SEC. 23. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall be an actual resident of said Territory, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, and those who shall have declared, on oath, their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act: *And provided further*, That no officer, soldier, seaman, or marine, or other person in the Army or Navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote or hold office in said Territory by reason of being on service therein.

SEC. 24. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the council and house of representatives of the said Territory shall, before it become a law, be presented to the governor of the Territory; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the assembly, by adjournment, prevent its return, in which case it shall not be a law.

SEC. 25. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory of Kansas. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and, in the first instance, the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly;

and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

SEC. 26. *And be it further enacted*, That no member of the legislative assembly shall hold, or be appointed to, any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 27. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error, and appeals from the final decisions of said supreme court, shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; except only that in all cases involving title to slaves, the said writs of error or appeals shall be allowed and decided by said supreme court, without regard to the value of the matter, property, or title in controversy; and except also that a writ of error or appeal shall also be allowed to the Supreme Court of the United States, from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writ of *habeas corpus*, involving the question of personal freedom: *Provided*, That nothing herein contained shall be construed to apply to or affect the provisions of the "Act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelfth, seventeen hundred and ninety-three, and the "Act to amend and supplementary to the aforesaid act," approved September eighteenth, eighteen hundred and fifty; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the circuit and district courts of the United States; and the said supreme and district courts of the said Territory, and the respective judges thereof, shall and may grant writs of *habeas corpus* in all cases in which the same are granted by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as may be necessary, shall be appropriated to the trial of causes arising under the said Constitution and

laws, and writs of error and appeal in all such cases shall be made to the supreme court of said Territory, the same as in other cases. The said clerk shall receive the same fees in all such cases which the clerks of the district courts of Utah Territory now receive for similar services.

SEC. 28. *And be it further enacted*, That the provisions of the act entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelfth, seventeen hundred and ninety-three, and the provisions of the act entitled "An act to amend and supplementary to the aforesaid act," approved September eighteenth, eighteen hundred and fifty, be, and the same are hereby, declared to extend to and be in full force within the limits of the said Territory of Kansas.

SEC. 29. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Utah. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Utah, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 30. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney, and marshal shall be nominated, and, by and with the advice and consent of the Senate, appointed, by the President of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the Territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and, afterward, the like oath or affirmation shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The governor shall receive an annual salary of two thousand five hundred dollars. The chief justice and associate justices shall receive an annual salary of two thousand dollars. The secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly, from the dates of the respective appointments, at the Treasury of the United States; but no such payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually traveled route; and an additional allowance of three dollars shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, a sergeant-at-arms, and door-keeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day, during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislature annually, unless, on an extraordinary occasion, the governor shall think

proper to call the legislature together. There shall be appropriated, annually, the usual sum, to be expended by the governor, to defray the contingent expenses of the Territory, including the salary of a clerk of the executive department; and there shall also be appropriated, annually, a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the governor and secretary of the Territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall, semi-annually, account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 31. *And be it further enacted*, That the seat of government of said Territory is hereby located temporarily at Fort Leavenworth; and that such portions of the public buildings as may not be actually used and needed for military purposes may be occupied and used, under the direction of the governor and legislative assembly, for such public purposes as may be required under the provisions of this act.

SEC. 32. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives, but the Delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the Constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within the said Territory of Kansas as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March sixth, eighteen hundred and twenty, which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of eighteen hundred and fifty, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of sixth of March, eighteen hundred and twenty, either protecting, establishing, prohibiting, or abolishing slavery.

SEC. 33. *And be it further enacted*, That there shall hereafter be appropriated, as has been customary for the territorial governments, a sufficient amount, to be expended under the direction of the said governor of the Territory of Kansas, not exceeding the sums heretofore appropriated for similar objects, for the erection of suitable buildings at the seat of government, and for the purchase of a library, to be kept at the seat of government for the use of the governor, legislative assembly, judges of the supreme court, secretary, marshal, and attorney of said Territory, and such other persons, and under such regulations as shall be prescribed by law.

SEC. 34. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

SEC. 35. *And be it further enacted*, That until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts; and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation, to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts as to them shall seem proper and convenient.

SEC. 36. *And be it further enacted*, That all officers to be appointed by the President, by and with the advice and consent of the Senate, for the Territory of Kansas, who, by virtue of the provisions of any law now existing, or which may be enacted during the present Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security at such time and place, and in such manner, as the Secretary of the Treasury may prescribe.

SEC. 37. *And be it further enacted*, That all treaties, laws, and other engagements made by the Government of the United States with the Indian tribes inhabiting the Territories embraced within this act shall be faithfully and rigidly observed, notwithstanding anything contained in this act; and that the existing agencies and superintendencies of said Indians be continued with the same powers and duties which are now prescribed by law, except that the President of the United States may, at his discretion, change the location of the office of superintendent.

APPROVED, May 30, 1854.

CONSTITUTION OF KANSAS—1855.*

PREAMBLE.

We, the people of the Territory of Kansas, by our delegates in convention assembled, at Topeka, on the 23d day of October, A. D. 1855, *and of the independence of the United States the eightieth year, having the right of admission into the Union as one of the United States of America, consistent with the Federal Constitution, and by virtue of the treaty of cession by France to the United States of the province of Louisiana, in order to secure to ourselves and our posterity the enjoyment of all the rights of life, liberty, and property, and the free pursuits of happiness, do mutually agree with each other to form ourselves into a free and independent State, by the name and style of the State of Kansas, bounded as follows, to wit: Beginning at a point on the western boundary of the State of Missouri where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence following said boundary westward to the eastern boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning; and do ordain and establish the following constitution and bill of rights for the government thereof:*

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquir-

* This constitution was adopted at a convention which met at Topeka October 23, 1855, and completed its labors November 2, 1855. It was claimed that it was submitted to the people of Kansas and ratified December 15, 1855, receiving 1,731 votes aganst 46.

ing, possessing, and protecting property, and seeking and obtaining happiness and safety.

SEC. 2. All political power is inherent in the people. Government is instituted for their equal protection and benefit; and they have the right to alter, reform, or abolish the same whenever they may deem it necessary; and no special privileges or immunities shall ever be granted that may not be altered, revoked, or repealed by the general assembly.

SEC. 3. The people have the right to assemble together, in a peaceable manner, to consult for their common good, to instruct their representatives, and to petition the general assembly for the redress of grievances.

SEC. 4. The people have the right to bear arms for their defence and security; but standing armies in time of peace are dangerous to liberty and shall not be kept up; and the military shall be kept in strict subordination to the civil power.

SEC. 5. The right of trial by jury shall be inviolate.

SEC. 6. There shall be no slavery in this State, nor involuntary servitude, unless for the punishment of crime.

SEC. 7. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship against his consent; and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the general assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

SEC. 8. The privilege of the writ of *habeas corpus* shall not be suspended, unless, in cases of rebellion or invasion, the public safety requires it.

SEC. 9. All persons shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 10. Except in cases of impeachment, and cases arising in the Army and Navy, or in the militia, when in actual service in time of war or public danger, and in cases of petit larceny and other inferior offences, no person shall be held to answer for a capital or otherwise infamous crime unless on presentment or indictment of a grand jury. In any trial in any court, the party accused shall be allowed to appear and defend in person and with counsel, to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial, by an impartial jury of the county or district in which the offence is alleged to have been committed; nor shall any person be compelled, in any criminal case, to be a witness against himself, or be twice put in jeopardy for the same offence.

SEC. 11. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libellous is true and was published with good motives and for justifiable ends, the party shall be acquitted.

SEC. 12. No person shall be transported out of the State for any offence committed within the same; and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 13. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in a manner prescribed by law.

SEC. 14. The right of the people to be secure in their persons, houses, papers, and possessions against unreasonable searches and seizures shall not be violated; and no

warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

SEC. 15. No person shall be imprisoned for debt in any civil action, or mesne or final process, unless in case of fraud.

SEC. 16. All courts shall be open; and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and justice administered without denial or delay.

SEC. 17. No hereditary emoluments, honors, or privileges shall ever be granted or conferred by this State.

SEC. 18. No power of suspending laws shall ever be exercised except by the general assembly.

SEC. 19. The payment of a tax shall not be a qualification for exercising the right of suffrage.

SEC. 20. Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war, or other public exigency imperatively requiring its immediate seizure, or for the purpose of making or repairing roads, which shall be open to the public use, without toll or other charge therefor, a compensation shall be made to the owner in money; and in all other cases where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money, and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.

SEC. 21. No indenture of any negro, or mulatto, made and executed out of the bounds of the State shall be valid within the State.

SEC. 22. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated shall remain with the people.

ARTICLE II.

ELECTIVE FRANCHISE.

SECTION 1. In all elections by the people, the vote shall be by ballot, and in all elections in the general assembly the vote shall be *viva voce*.

SEC. 2. Every white male person, and every civilized male Indian who has adopted the habits of the white man, of the age of twenty-one years and upwards, who shall be at the time of offering to vote a citizen of the United States; who shall have resided and had his habitation, domicile, home, and place of permanent abode in the State of Kansas for six months next preceding the election at which he offers to vote; who, at such time, and for thirty days immediately preceding said time, shall have had his actual habitation, domicile, home, and place of permanent abode in the county in which he offers to vote, and who shall have resided in the precinct or election-district for at least ten days immediately preceding the election, shall be deemed a qualified elector at all elections under this constitution, except in elections by general ticket in the State or district prescribed by law, in which case the elector must have the aforesaid qualifications, but a residence in said district for ten days will entitle him to vote: *Provided*, That no soldier, seaman, or marine, of the regular Army or Navy of the United States, shall be considered a resident of the State in consequence of being stationed within the same.

SEC. 3. The general assembly shall, at its first session, provide for the registration of all qualified electors in each county, and thereafter, from time to time, of all who may become qualified electors.

SEC. 4. The legislature shall have power to exclude from every office of honor, trust, or profit within the State, and from the right of suffrage, all persons convicted of any infamous crime.

SEC. 5. No person shall be deemed capable of holding or being elected to any post of honor, profit, trust, or emolument, civil or military, or exercise the right of suffrage under the government of this State, who shall hereafter fight a duel, send or accept a challenge to fight a duel, or who shall be a second to either party, or who shall in any manner aid or assist in such duel, or who shall be knowingly the bearer

of such challenge or acceptance, whether the same occur or be committed in or out of the State.

SEC. 6. No person who may hereafter be collector or holder of public moneys shall be eligible to any office of trust or profit in the State until he shall have accounted for and paid into the proper public treasury all sums for which he may be accountable.

SEC. 7. No State officer or member of the general assembly of this State shall receive a fee, be engaged as counsel, agent, or attorney in any case or claim against the State.

SEC. 8. No senator or representative shall, during the term of office for which he shall have been elected, be appointed to any civil office of profit in this State which shall have been created or the emoluments of which shall have been increased during such term, except such offices as may be filled by election by the people.

SEC. 9. All officers, civil and military, in this State, before they enter upon the duties of their respective offices, shall take the following oath or affirmation: "I, ——— ———, do swear [or affirm] that I will support the Constitution of the United States and of the State of Kansas; that I am duly qualified according to the Constitution to exercise the office to which I have been elected, [or appointed,] and will, to the best of my abilities, discharge the duties thereof faithfully and impartially, according to law."

SEC. 10. Every person shall be disqualified from holding any office of honor or profit in this State who shall have been convicted of having given or offered any bribe to procure his election, or who shall have made use of any undue influence from power, tumult, or other improper practices.

SEC. 11. All civil officers of the State shall reside within the State, and all district and county officers within their respective districts and counties, and shall have their offices at such places therein as may be required by law.

SEC. 12. Returns of elections for members of Congress, the general assembly, and all other officers not otherwise provided for shall be made to the secretary of state, in such manner as may be prescribed by law.

SEC. 13. Electors shall in all cases be privileged from arrest during their attendance on elections, and in going to and returning therefrom, except in case of felony, treason, and breach of the peace.

ARTICLE III.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government shall be divided into three separate departments, the legislative, the executive, including the administrative, and the judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another, except as in this constitution expressly provided.

ARTICLE IV.

LEGISLATIVE.

SECTION 1. The legislative power of this State shall be vested in the general assembly, which shall consist of a senate and house of representatives.

SEC. 2. The senators and representatives shall be chosen annually, by the qualified electors of the respective counties or district for which they are chosen, on the first Monday of August, for one year, and their term of office shall commence on the first day of January next thereafter.

SEC. 3. There shall be elected at the first election twenty senators and sixty representatives, and the number afterwards shall be regulated by law.

SEC. 4. No person shall be eligible to the office of senator or representative who shall not possess the qualifications of an elector.

SEC. 5. No person holding office under the authority of the United States, or any lucrative office under the authority of this State, shall be eligible to, or have a seat

in, the general assembly; but this provision shall not extend to township officers, justices of the peace, notaries public, postmasters, or officers of the militia.

SEC. 6. Each house, except as otherwise provided in this constitution, shall choose its own officers, determine its own rule of proceeding, punish its members for disorderly conduct, and, with the concurrence of two-thirds, expel a member, but not the second time for the same cause; and shall judge of the qualification, election, and return of its own members, and shall have all other powers necessary for its safety and the undisturbed transaction of business.

SEC. 7. Each house shall keep a journal of its proceedings and publish the same. The yeas and nays on any question shall, at the request of two members, be entered on the journal.

SEC. 8. Any member of either house shall have the right to protest against any act or resolution thereof; and such protest and reason therefor shall, without alteration, commitment, or delay, be entered on the journal.

SEC. 9. All vacancies which may occur in either house shall, for the unexpired term, be filled by election as shall be prescribed by law.

SEC. 10. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for words spoken in debate they shall not be questioned in any other place.

SEC. 11. A majority of all the members elected to each house shall be necessary to pass every bill or joint resolution, and all bills and joint resolutions so passed shall be signed by the presiding officers of the respective houses, and presented to the governor for his approval.

SEC. 12. The doors of each house and of committees of the whole shall be kept open. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting, except for personal safety.

SEC. 13. Every bill shall be read by sections on three several days in each house, unless in case of emergency. Two-thirds of the house where such bill is pending may, if deemed expedient, suspend the rule on a call of the yeas and nays; but the reading of a bill by sections, on its final passage, shall in no case be dispensed with; and the vote on the passage of every bill or joint resolution shall be taken by yeas and nays.

SEC. 14. Every act shall contain but one subject, which shall be clearly expressed in its title. Bills may originate in either house, but may be altered, amended, or rejected by the other.

SEC. 15. In all cases when a general law can be made applicable, special laws shall not be enacted.

SEC. 16. No act shall ever be revived or amended by mere reference to its title; but the act revived or the section amended shall be set forth and published at full length.

SEC. 17. No act shall take effect until the same shall have been published and circulated in the counties of the State, by authority, except in case of emergency, which emergency shall be declared in the preamble or the body of the law.

SEC. 18. The election and appointment of all officers, and the filling of all vacancies not otherwise provided for by this constitution or the Constitution of the United States, shall be made in such manner as shall be prescribed by law; but no appointing power shall be exercised by the general assembly, except as provided in this constitution, and in the election of the United States Senator, and in these cases the vote shall be taken *viva voce.*

SEC. 19. The general assembly shall not have power to enact laws annulling the contract of marriage in any case where, by law, the courts of this State may have power to decree a divorce.

SEC. 20. The general assembly shall not have power to pass retroactive laws, or laws impairing the obligation of contracts; but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable, the manifest in-



tention of parties and officers, by curing omissions, defects, and errors in instruments and proceedings, arising out of a want of conformity with the laws of this State.

SEC. 21. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Kansas.*"

SEC. 22. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate, and, when sitting for the purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of all the senators present.

SEC. 23. The governor and all other civil officers under the laws of this State shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment, and punishment according to law.

SEC. 24. Within one year after the ratification of this constitution, and within every subsequent two years thereafter, for the term of ten years, an enumeration of all the white inhabitants of this State shall be made in such manner as shall be directed by law.

SEC. 25. All regular sessions of the general assembly shall be held at the capital of the State, and shall commence on the first Tuesday of January, annually.

SEC. 26. All bills for raising revenue shall originate in the house of representatives, subject, however, to amendment or rejection as in other cases.

SEC. 27. The members of the general assembly shall receive for their services the sum of four dollars per day for each and every day they are actually in attendance at any regular or special session, and four dollars for every twenty miles they shall travel in going to and returning from the place of meeting, by the most usually travelled route; and no session of the general assembly, except the first under this constitution, shall extend beyond the term of sixty days, nor any special session more than forty days.

ARTICLE V.

EXECUTIVE.

SECTION 1. The executive department shall consist of a governor, a lieutenant-governor, secretary of state, treasurer, auditor, and attorney-general, who shall be chosen by the electors of the State at the same time and place of voting for the members of the general assembly.

SEC. 2. The governor, lieutenant-governor, secretary of state, treasurer, auditor, attorney-general, and State printer shall hold their office for two years. Their terms of office shall commence on the first Tuesday of January next after their election, and continue until their successors are elected and qualified, neither of which officers shall be eligible for reëlection more than two out of three consecutive terms; nor shall any person be eligible for the office of governor who shall not have attained the age of thirty years.

SEC. 3. The returns of every election for the officers named in the foregoing section shall be sealed up and transmitted to the seat of government by the returning-officers, directed to the secretary of state, who shall lay the same before the general assembly at their first meeting thereafter, when they shall open, publish, and declare the result thereof, in the presence of a majority of the members of both houses. The person having the highest number of votes shall be declared duly elected, and a certificate thereof given to such person, signed by the presiding officers of both bodies; but if any two or more shall be highest and equal in votes for the same office, one of them shall be chosen by the joint vote of both houses.

SEC. 4. The supreme executive power shall be vested in a governor.

SEC. 5. He may require information in writing from the officers in the executive department upon any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed.

SEC. 6. He shall communicate, at every session, by message, to the general assembly, the condition of the affairs of the State, and recommend such measures as he shall deem expedient for their action.

SEC. 7. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purposes for which they were convened.

SEC. 8. In case of disagreement between the two houses in respect to the time of adjournment, he shall have power to adjourn the general assembly to such time as he may think proper, but not beyond the regular meetings thereof.

SEC. 9. He shall be commander-in-chief of the military in the State, except when they shall be called into the service of the United States.

SEC. 10. The pardoning power shall be vested in the governor under such regulations and restrictions as may be prescribed by law.

SEC. 11. There shall be a seal of the State, the device of which shall be fixed upon by the governor and other State officers, be kept by the governor and used by him officially, and shall be called "The Great Seal of the State of Kansas."

SEC. 12. All grants and commissions shall be used in the name and by the authority of the State of Kansas, sealed with the great seal, signed by the governor, and countersigned by the secretary of state.

SEC. 13. No member of either house of Congress, or other persons holding office under the authority of this State or of the United States, shall execute the office of governor except as herein provided.

SEC. 14. In the case of death, impeachment, resignation, removal, or other disability of the governor, the lieutenant-governor shall exercise the duties of the office of governor until another governor shall be duly qualified; but in such case another governor shall be chosen at the next annual election for members of the general assembly, unless such death, resignation, impeachment, removal, or other disability shall occur within three calendar months immediately preceding such next annual election, in which case a governor shall be chosen at the second succeeding annual election for members of the general assembly; and in case of the death, impeachment, resignation, removal, or other disability of the lieutenant-governor, the president of the senate *pro tempore* shall exercise the office of governor until a governor shall be duly qualified as aforesaid.

SEC. 15. The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided, and shall be entitled to the same pay as the speaker of the house of representatives, and in case of his death, impeachment, resignation, removal from office, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

SEC. 16. Should the office of secretary of state, treasurer, auditor, or attorney-general become vacant, for any of the causes specified in the fourteenth and fifteenth sections, the governor shall fill the vacancy or vacancies until the disability is removed or a successor is elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after such vacancy shall have occurred, and the person chosen shall hold the office for the full term fixed in the second section of this article.

SEC. 17. The officers mentioned in this article shall, at stated times, receive for their services compensation to be fixed by law, which shall neither be increased or diminished during the period for which they shall have been elected.

SEC. 18. The officers of the executive department and of the public State institutions shall, at least ten days preceding each regular session of the general assembly, severally report to the governor, who shall transmit the same to the general assembly.

SEC. 19. Every bill which shall have passed both houses shall be presented to the governor. If he approve, he shall sign the same, but if he shall not approve, he shall return it with his objections to the house in which it shall have originated, who shall enter the objections at large upon the journal, and proceed to reconsider the same. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent with the objections to the other house, by which, likewise, it shall be reconsidered, and if approved by two-thirds of that house it shall be a

law. But in such case, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered upon the journals of each house respectively. If any bill shall not be returned by the governor within five days (Sunday excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevented its return, in which case it shall also be a law, unless sent back within two days after the next meeting.

SEC. 20. Contested elections for governor, lieutenant-governor, judges of the supreme court, and all other State officers, shall be determined by the general assembly, in such manner as may be prescribed by law.

SEC. 21. The general assembly shall have power to provide by law for the election of a surveyor-general, State geologist, and superintendent of common schools, whose duties shall be prescribed by law.

ARTICLE VI.

JUDICIAL.

SECTION 1. The judicial power of the State shall be vested in a supreme court, courts of common pleas, justices of the peace, and in such other courts inferior to the supreme court as the general assembly may establish.

SEC. 2. The supreme court shall consist of three judges, a majority of whom shall form a quorum. It shall have such original and appellate jurisdiction as may be provided by law. It shall hold at least one term each year, at the seat of government, and such other terms as may be provided by law. The judges of the supreme court shall be elected by the electors of the State at large.

SEC. 3. The State shall be divided by the first general assembly under this constitution into three common-pleas districts of compact territory, bounded by county lines, and as nearly equal in population as practicable; and a judge for each district shall be chosen by the electors thereof, and their term of office shall be for three years.

SEC. 4. The courts of common pleas shall consist of one judge each, who shall reside within the district for which he is chosen during his continuance in office.

SEC. 5. The jurisdiction of the court of common pleas, and of the judges thereof, shall be fixed by law.

SEC. 6. A competent number of justices of the peace shall be elected by the electors in each township of the several counties. The term of office shall be three years, and their powers and duties shall be fixed by law.

SEC. 7. All judges, other than those provided for in the constitution, shall be elected by the electors of the judicial district for which they may be created, but not for a longer term of office than three years.

SEC. 8. The judges of the supreme court shall, immediately after the first election under this constitution, be classified by lot, so that one shall hold for the term of one year, one for the term of two years, and one for the term of three years, and at all subsequent elections the term of each of said judges shall be for three years.

SEC. 9. In case the office of any judge shall become vacant before the expiration of the term for which he was elected, the vacancy shall be filled by appointment by the governor until a successor shall be elected and qualified; and such successor shall be elected for the residue of the unexpired term at the first annual election that occurs more than thirty days after such vacancy shall have happened.

SEC. 10. The judges of the supreme court and of the courts of common pleas shall, at stated times, receive such compensation as may be provided by law, which shall not be increased or diminished during their term of office, but they shall receive no fees or perquisites, nor hold any other office of profit and trust under the State, other than a judicial office.

SEC. 11. The general assembly may increase or diminish the number of the judges of the supreme court, the number of the districts of the courts of common pleas, the number of judges in any district, or establish other courts whenever two-thirds of



the members elected to each house shall concur therein, but no such change, addition, or diminution shall vacate the office of any judge.

SEC. 12. There shall be elected in each county, by the electors thereof, one clerk of the court of common pleas, who shall hold his office for the term of three years, and until his successor shall be elected and qualified.

SEC. 13. The general assembly shall provide, by law, for the speedy publication of the decisions of the supreme court made under this constitution.

SEC. 14. The supreme court shall, upon the decision of every case, give an opinion, in writing, of each question arising in the record in such case, and the decision of the court thereon.

SEC. 15. There shall be elected by the voters of the State a clerk and a reporter for the supreme court, who shall hold their offices for three years, and whose duties shall be prescribed by law.

SEC. 16. Judges may be removed from office by concurrent resolution of both houses of the general assembly, if two-thirds of the members elected to each house concur therein; but no such removal shall be made except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have had notice thereof, and an opportunity to be heard.

SEC. 17. The several judges of the supreme court, of the court of common pleas, and of such other courts as may be created by law, shall respectively have and exercise such power and jurisdiction, at chambers or otherwise, as may be provided by law.

SEC. 18. The style of all process shall be, "The State of Kansas." All prosecutions shall be carried on in the name and by the authority of the State of Kansas; and all indictments shall conclude, "against the peace and dignity of the State of Kansas."

ARTICLE VII.

EDUCATION.

SEC. 1. The principal of all funds arising from the sale or other disposition of lands or other property granted or intrusted to this State for educational and religious purposes, shall forever be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific objects of the original grants or appropriations.

SEC. 2. The general assembly shall make such provision, by taxation or otherwise, as, with the income arising from the school trust-fund, will secure a thorough and efficient system of common schools throughout the State; but no religious or other sect or sects shall ever have any exclusive right to or control of any part of the school-funds of this State.

SEC. 3. The general assembly may take measures for the establishment of a university, with such branches as the public convenience may hereafter demand, for the promotion of literature, the arts, science, medical and agricultural instruction.

SEC. 4. Provision may be made by law for the support of normal schools, with suitable libraries and scientific apparatus.

ARTICLE VIII.

PUBLIC INSTITUTIONS.

SEC. 1. It shall be the duty of the general assembly, at as early a date as possible, to provide State asylums for the benefit, treatment, and instruction of the blind, deaf and dumb, and insane.

SEC. 2. The general assembly shall make provision for the establishment of an asylum for idiots, to be regulated by law.

SEC. 3. The respective counties of the State shall provide, in some suitable manner, for those inhabitants who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society, under provisions to be made by the laws of the general assembly.

SEC. 4. The general assembly shall make provision for the establishment of houses of refuge for the correction, reform, and instruction of juvenile offenders.

SEC. 5. It shall be the duty of the general assembly to make provision, as soon as possible, for a State general hospital.

ARTICLE IX.

PUBLIC DEBT AND PUBLIC WORKS.

SEC. 1. No money shall be paid out of the treasury except in pursuance of an appropriation by law.

SEC. 2. The credit of the State shall never be given or loaned in aid of any individual, association, or corporation.

SEC. 3. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts shall never in the aggregate exceed one hundred thousand dollars, unless authorized by a direct vote of the people at a general election. Every such debt shall be authorized by law, and every such law shall provide for the payment of the annual interest of such debt, and the principal within ten years from the passage of such law; and such appropriation shall not be repealed until the principal and interest shall have been wholly paid.

SEC. 4. The legislature may also borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or repayment of the debts thereby created.

SEC. 5. No scrip, certificate, or other evidence of State debt whatever shall be, except for such debts as are authorized by the third and fourth sections of this article.

ARTICLE X.

MILITIA.

SEC. 1. The militia shall consist of all able-bodied white male persons between the ages of eighteen and forty years, except such as may be exempt by the laws of the United States, or of this State, and shall be organized, officered, armed, equipped, and trained in such manner as may be provided by law.

SEC. 2. The governor shall appoint the adjutant, quartermaster, and commissary-general.

SEC. 3. All militia officers shall be commissioned by the governor, and shall hold their offices not longer than three years.

SEC. 4. The general assembly shall determine the method of dividing the militia into divisions, brigades, regiments, battalions, and companies, and fix the rank of all officers.

SEC. 5. The militia may be divided into classes, in such manner as shall be prescribed by law.

SEC. 6. No person conscientiously opposed to bearing arms shall be compelled to do militia duty, but such person shall pay an equivalent for such exemption, the amount to be prescribed by law.

SEC. 7. The first general assembly shall offer inducements for the formation, uniforming, and drilling independent volunteer companies in the different cities and counties of this State.

ARTICLE XI.

FINANCE AND TAXATION.

SECTION 1. The general assembly shall provide by law for a uniform and equal rate of assessment and taxation, and taxes shall be levied upon all such property, real and personal, as the general assembly may from time to time prescribe; but all property appropriated and used exclusively for municipal, literary, educational, scientific,

or charitable purposes, and personal property to an amount not exceeding one hundred dollars for each head of a family, and all property appropriated and used exclusively for religious purposes, to an amount not exceeding two hundred thousand dollars, may by general laws be exempted from taxation.

SEC. 2. The general assembly shall provide by law for an annual tax sufficient to defray the estimated ordinary expenses of the State for each year.

SEC. 3. Every law imposing a tax shall state distinctly the object of the same to which it shall be applied.

SEC. 4. On the passage in either house of the general assembly of any law which imposes, continues, or renews a tax, or makes, continues, or renews an appropriation of public or trust money, or releases, discharges, or commutes a claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered on the journal, and three-fifths of all the members elected to such house shall in all such cases be required to constitute a quorum.

ARTICLE XII.

COUNTY AND TOWNSHIP OFFICERS.

SECTION 1. The general assembly shall provide by law for the election of county, city, town, and township officers.

SEC. 2. All officers whose election or appointment is not provided for by this constitution shall be elected by the people, or appointed as the general assembly may by law direct.

SEC. 3. Provision shall be made by law for the removal for misconduct, or malversation in office, of all officers whose powers and duties are not local or legislative, and who shall be elected at general elections, and also for supplying vacancies created by such removal.

SEC. 4. The legislature may declare the cases in which any office shall be deemed vacant, where no provision is made for that purpose in this constitution.

ARTICLE XIII.

CORPORATIONS.

SECTION 1. The general assembly shall not create corporations by special act except for municipal purposes.

SEC. 2. Corporations may be formed under general laws, but such laws may at any time be altered or repealed.

ARTICLE XIV.

JURISPRUDENCE.

SECTION 1. The general assembly, at its first session, shall constitute three commissioners, whose duty it shall be to revise, reform, simplify, and abridge the rules of practice, pleadings, forms, and proceedings of the courts of record of this State, and to provide, so far as practicable and expedient, that justice shall be administered by intelligent and uniform proceedings without any distinction between law and equity.

SEC. 2. The proceedings of the commissioners shall be reported to the general assembly, and be subject to the action of that body.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. The first general assembly shall locate the permanent seat of government.

SEC. 2. Lotteries and the sale of lottery-tickets, for any purpose whatever, shall forever be prohibited in the State.



SEC. 3. No person shall be elected or appointed to any office in this State unless they possess the qualifications of an elector.

SEC. 4. There may be established in the secretary of state's office a bureau of statistics and agriculture, under such regulations as may be prescribed by law, and provision shall be made by the general assembly for the organization and encouragement of State and county agricultural associations.

SEC. 5. The first general assembly shall provide by law for securing to the wife the separate property acquired by her before or after coverture, and the equal right with the husband to the custody of the children during their minority; and in case of death, insanity, intemperance, or gross impropriety of the husband, their exclusive custody.

ARTICLE XVI.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. All propositions for amendments to the constitution shall be made by the general assembly.

SEC. 2. A concurrence of two-thirds of the members elected to each house shall be necessary, after which such proposed amendments shall be entered upon the journals with the yeas and nays, and the secretary of state shall cause the same to be published in at least one newspaper in each county in the State where a newspaper is published, for at least six months preceding the next election for senators and representatives, when such proposed amendments shall be again referred to the legislature elected next succeeding said publication. If passed by the second legislature, by a majority of two-thirds of the members elected to each house, such amendments shall be republished, as aforesaid, for at least six months prior to the next general election, at which election such proposed amendments shall be submitted to the people for their approval or rejection, and if the majority of the electors voting at such election shall adopt such amendments the same shall become a part of the constitution.

SEC. 3. When more than one amendment is submitted at the same time, they shall be so submitted as to enable the electors to vote upon each amendment separately.

SEC. 4. No convention for the formation of a new constitution shall be called, and no amendment to the constitution shall be by the general assembly made, before the year 1865, nor more than once in five years thereafter.

ARTICLE XVII.

BANKS AND CURRENCY.

SECTION 1. No banks shall be established otherwise than under a general banking-law.

SEC. 2. If the general assembly shall enact a general banking-law, such law shall provide for the registry and countersigning by the auditor of state of all paper-credit designed to be circulated as money, with ample collateral security, readily convertible into specie, for the redemption of the same in gold or silver as shall be required, which collateral security shall be under the control of the proper officer or officers of state. Such law shall restrict the aggregate amount of all paper-credit to be circulated as money, and the aggregate amount to be put in circulation in any one year, and no note issued under the provision of this section shall be of a less denomination than ten dollars.

SEC. 3. The stockholders in every bank or banking company shall be individually liable, to an amount over and above their stock equal to their respective shares of stock, for all debts and liabilities of said bank or banking company.

SEC. 4. All bills or notes issued as money shall be at all times redeemable in gold or silver; and no law shall be passed sanctioning, directly or indirectly, the suspension, by any bank or banking company, of specie payments.

SEC. 5. Holders of bank-notes shall be entitled, in case of insolvency, to preference of specie payment over all other creditors.

SEC. 6. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals loaning money.

SEC. 7. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter to close its business.

SEC. 8. The State shall not be a stockholder in any bank or banking institution.

SEC. 9. All banks shall be required to keep officers and proper offices for the issue and redemption of their paper, at some accessible and convenient point within the State.

SEC. 10. The said banking-law shall contain a provision reserving the power to alter, amend, or repeal said law.

SEC. 11. At the time of submitting this constitution to the electors for their approval or disapproval, the articles numbered, in relation to a general banking-law, shall be submitted as a distinct proposition, in the following form: General banking-law—yes or no; and if a majority of the votes cast shall be in favor of said article, then the same shall form a part of this constitution; otherwise it shall be void and form no part thereof.

SCHEDULE.

In order that no inconvenience may arise from the organization and establishment of a State government, and that the wishes of the people may be fully accomplished, it is declared—

First. That no existing rights, suits, prosecutions, claims, and contracts shall be affected by a change in the form of government.

Second. That this constitution shall be submitted to the people of Kansas for ratification on the 15th day of December next.

Third. That each qualified elector shall express his assent or dissent to the constitution by voting a written or printed ticket, labelled "Constitution," or "No constitution," which election shall be held by the same judges and conducted under the same regulations and restrictions as is hereinafter provided for the election of members of the general assembly, and the judges therein named shall, within ten days after said election, seal up and transmit to the chairman of the executive committee of Kansas Territory the result of said election, who shall forthwith make proclamation of the same; and in case the constitution be ratified by the people, the chairman of the executive committee shall cause publication to be made by proclamation that an election will be held on the third Tuesday of January, A. D. 1856, for governor, lieutenant-governor, secretary of state, treasurer, auditor, judges of the supreme court, State printer, attorney-general, reporter of the supreme court, clerk of the supreme court, and members of the general assembly, which said election shall be held by the same judges, under the same restrictions and conducted in the same manner as is hereinafter provided for the election of members of the general assembly; and the judges herein named are hereby required, within ten days after said election, to seal up and transmit duplicate copies of the returns of said election to the chairman of the executive committee, one of which shall be laid before the general assembly at its first meeting.

Fourth. At the same time and place the qualified voters shall, under the same regulations and restrictions, elect a member of Congress, to represent the State of Kansas in the Thirty-fourth Congress of the United States; the returns of said election to be made to the chairman of the executive committee, who shall deposit the same in the office of the secretary of state, as soon as he shall enter upon the discharge of the duties of his office.

Fifth. The general assembly shall meet on the fourth day of March, A. D. 1856, at the city of Topeka, at 12 m., at which time and place the governor, lieutenant-governor, secretary of state, judge of the supreme court, treasurer, auditor, State printer, reporter and clerk of the supreme court, and attorney-general, shall appear, take the oath of office, and enter upon the discharge of the duties of their respective offices under this constitution, and shall continue in office in the same manner and

during the same period they would have done had they been elected on the first Monday of August, A. D. 1856.

Sixth. Until otherwise provided by law, the State shall be divided into election-districts; and the senators and representatives shall be apportioned among the several districts as follows:

First district.—Commencing in the Kansas River at the mouth of Cedar Creek; thence up said river to the first tributary above the town of Lawrence; thence up said tributary to its source; thence by a direct line to the west side of Johnson's house; thence by a due-south line to the Santa Fé road, and along the midde of said road to a point due south of the source of Cedar Creek; thence due north to the source of Cedar Creek, and down the same to the place of beginning.

Second district.—Commencing at the mouth of Big Spring Branch, on the south bank of the Kansas River; thence up said branch to its furthest source; thence by a southerly line, crossing the Wakarusa River on the east side of the house of Charles Matney, to the middle of the Sante Fé road; thence along the middle of said road to the line of the first district; thence by the same, along the west side of the house of ——— Johnson, to the head of the first tributary of the Kansas above the town of Lawrence; and thence by the same tributary to the Kansas River, and up the south bank of said river to the mouth of Big Spring Branch, the place of beginning.

Third district.—Commencing at the mouth of Big Spring Branch, on the south side of the Kansas River; thence up the same to its furthest source; thence by a southerly line to the north bank of the Wakarusa River, on the east side of the house of Charles Matney; thence up said river and its main branch to the line of the Pottawatomie reservation; and thence by the southern and western line of said reservation to the Kansas River, and down the said river to the place of beginning.

Fourth district.—Commencing at the Missouri State line, in the middle of the Santa Fé road; thence along the middle of said road to Rock Creek, near the 65th mile of said road; thence south to the line of the Shawnee reservation ceded by the treaty of 1854; thence due east, along the south line of said reservation and the north lines of the existing reservations of the Sacs and Foxes, the existing reservations of the Chippewas and Ottawas, and the reservations of the Piankeshaws, Weas, Peorias, and Kaskaskias, to the Missouri State line; thence up the Missouri State line to the place of beginning.

Fifth district.—Commencing at the Missouri State line at the southern boundary of the fourth district; thence west along the same to the northwest corner of the Sac and Fox reservation; thence due south along the west line thereof, and due south to the south branch of the Neosho River, about seventy miles above the Catholic Osage mission; thence down said river to the north line of the reserve for the New York Indians, and east along said line to the headwaters of Little Osage River, or the nearest point thereto; and thence down said river to the Missouri State line, and up said line to the place of beginning.

Sixth district.—Commencing on the Missouri State line in Little Osage River; thence up the same to the line of the reserve for the New York Indians, or the nearest point thereto; thence to and by the north line of said reserve to the Neosho River, and up said river and the south branch thereof to the head; and thence by a due-south line to the southern line of the Territory; thence by the southern and eastern lines of said Territory to the place of beginning.

Seventh district.—Commencing at the east side of the house of Charles Matney on the Wakarusa River; thence due south to the middle of the Santa Fé road; thence westwardly, along the middle of said road, to Rock Creek, near the 65th mile of said road; thence due south to the north line of the Sac and Fox reservation; thence along the north and west line thereof, and due south, to the Neosho River; thence up said river to a point due south of the mouth of Elm Creek; thence due north to the mouth of Elm Creek, and up said creek to the Santa Fé road; and thence by a direct line in a northerly direction to the southwest corner of the Pottawatomie reservation; thence along the southern line of said reservation to the headwaters of the Wakarusa River, or the point nearest thereto; thence to and down the said river to the place of beginning.

Eighth district.—Commencing at the mouth of Elm Creek, one of the branches of Osage River; thence up the same to the Santa Fé road; thence by a direct northerly line to the southwest corner of the Pottawatomie reservation; thence up the western line thereof to Kansas River; thence up said river and the Smoky Hill Fork, beyond the most westerly settlements; thence due south to the line of the Territory; thence by the same to the line of the sixth district; thence due north to the head of the south branch of the Neosho River; thence down said river to the line of the seventh district; thence due north to the place of beginning.

Ninth district.—Commencing at Smoky Hill Fork, beyond the most westerly settlements; thence down the same and the Kansas River to the mouth of Wild Cat Creek; thence up said creek to the headwaters thereof; thence due north to the Independence emigrant road; thence up said road to the north line of the Territory; thence west, along the same, beyond the most westerly settlements; and thence due south to the place of beginning.

Tenth district.—Commencing at the mouth of Vermillion River; thence up the same beyond the house of Josiah D. Adams; thence due north to the Independence emigrant road; thence up the middle of said road to the line of the ninth district; thence by the same to the head of Wild Cat Creek, and down said creek to the Kansas River; thence down said river to the place of beginning.

Eleventh district.—Commencing in the Vermillion River, opposite the north side of the house of Josiah D. Adams; thence up said river to the head of the main branch; thence due north to the military road from Fort Leavenworth to Fort Kearney; thence along the middle of said road to the crossing of the Vermillion Branch of the Blue; thence due north to the northern line of the Territory; thence west, along said line, to the Independence emigrant road; thence down said road to a point due west to the north end of the house of Josiah D. Adams, and due east to the place of beginning.

Twelfth district.—Commencing at the mouth of Soldier Creek, in the Kansas River; thence up said creek to the head of the main branch; thence due north to the military road from Fort Leavenworth to Fort Kearney; thence along the middle of said road to the line of the eleventh district; thence due south to the head of Vermillion River, down Vermillion River to the mouth, and down Kansas River to the place of beginning.

Thirteenth district.—Commencing in the Kansas River, at a point three miles above the mouth of Stranger Creek; thence in a northwardly direction by a line corresponding to and three miles west of the several courses of said creek to the line of the Kickapoo reservation; thence by the southern and western line of said reservation to the military road from Fort Leavenworth to Fort Kearney; thence along the middle of said road to the line of the twelfth district; thence due south to the head of Soldier Creek, down Soldier Creek to the mouth, and down Kansas River to the place of beginning.

Fourteenth district.—Commencing at the mouth of Independence Creek; thence up said creek to the head of the main branch, and thence due west to the line of the late Kickapoo reservation; thence north along said line and the line of the late Sac and Fox reservation to the north line of the Territory; thence along said line eastwardly to the Missouri River, and down said river to the place of beginning.

Fifteenth district.—Commencing at the mouth of Salt Creek on the Missouri River; thence up said creek to the military road, and along the middle of said road to the lower crossing of Stranger Creek; thence up said creek to the line of the late Kickapoo reservation, and thence along the southern and western line thereof to the line of the fourteenth district; thence by the same, and down Independence Creek to the mouth thereof, and thence down the Missouri River to the place of beginning.

Sixteenth district.—Commencing at the mouth of Salt Creek; thence up said creek to the military road; thence along the middle of said road to the lower crossing of Stranger Creek; thence up said creek to the line of the late Kickapoo reservation, and thence along the same to the line of the thirteenth district, and thence by the same, along a line corresponding to the source of Stranger Creek, and keep-

ing three miles west thereof, to the Kansas River; thence down the Kansas River to the Missouri, and up the Missouri River to the place of beginning.

Seventeenth district.—Commencing at the mouth of the Kansas River; thence up the south bank thereof to the mouth of Cedar Creek; thence up Ceder Creek to its source; and thence due south to the Santa Fé road, along the middle of said road to the Missouri State line, and along said line to the place of beginning.

Eighteenth district.—Commencing in the military road at the crossing of the Vermillion branch of Blue River; thence due north to the line of the Territory; thence east, along said line, to the fourteenth district; thence due south along said line to the aforesaid military road, and along the middle of said road to the place of beginning.

Senatorial and representative district.—1st. The first election-district shall be entitled to three senators and eight representatives.

2d. The second election-district shall be entitled to one senator and three representatives.

3d. The third election-district shall be entitled to one senator and three representatives.

4th. The fourth and seventeenth election-districts shall constitute the fourth senatorial and representative district, and be entitled to one senator and two representatives.

5th. The fifth election-district shall be entitled to three senators and nine representatives.

6th. The sixth, seventh, and eighth election-districts shall constitute the sixth senatorial and representative district, and be entitled to two senators and five representatives.

7th. The ninth and tenth election-districts shall constitute the seventh senatorial district, and be entitled to one senator and four representatives.

8th. The eleventh and twelfth election-districts shall constitute the eighth senatorial and representative district, and be entitled to one senator and three representatives.

9th. The thirteenth election-district shall constitute the ninth senatorial and representative district, and be entitled to one senator and two representatives.

10th. The fourteenth and eighteenth election-districts shall constitute the tenth senatorial and representative district, and be entitled to two senators and seven representatives.

11th. The fifteenth election-district shall constitute the eleventh senatorial and representative district, and be entitled to one senator and five representatives.

12th. The sixteenth election-district shall constitute the twelfth senatorial and representative district, and be entitled to three senators and nine representatives.

Sec. 3. Until otherwise provided by law, the election in the several districts shall be held at the following places, and the following-named persons are hereby appointed as judges of the elections:

PLACES OF VOTING.

Sec. 4. *First senatorial district.*—Lawrence precinct, at the Free State Hotel; A. D. Searle, Lyman Allen, Henry Bronson, judges.

Franklin precinct, at the store of Mr. Purdam; James McGee, Horace L. Enos, I. Purdam, judges.

Blanton precinct, at the house of J. B. Abbott; John Stewart, R. Vaughn, P. T. Hupp, judges.

Palmyra precinct, at the house of H. Barricklow; H. Barricklow, Louis Green, A. Pierson, judges.

Second senatorial district.—Bloomington precinct, at the house of H. Burson; Samuel Smith, Daniel Vancil, J. M. Dunn, judges.

Third senatorial district.—Washington precinct, at the house of W. R. Frost; W. Riley, Caleb Antram, Eli Allen, judges.



Tecumseh precinct, at the house of J. Taylor; Charles Jordan, John Morris, Francis Grassmuck, judges.

Topeka precinct, at the law-office of E. C. K. Garvey; Dr. F. L. Crain, Milton C. Dickey, J. F. Cummings, judges.

Brownsville precinct, at the house of G. W. Brown; G. W. Brown, Mr. Simmerwell, Dr. Bowen, judges.

Fourth senatorial district.—Prairie City precinct, at the house of Samuel Mewhenny; W. Moore, Samuel Workman, Amos Hanna, judges.

Mission precinct, at the Baptist mission building; G. L. Osborn, S. M. Cornautzer, Lewis Dougherty, judges.

Wakarusa precinct, at the store of Paschal Fish; L. H. Bascom, Ellis Bond, A. G. Green, judges.

Fifth senatorial district.—Osawatomie precinct, at the house of Samuel Geer; William Chestnut, B. Woodbury, William Sailing, judges.

Stanton precinct, at the house of Mr. Staniford; J. Woollard, Mr. Morse, W. G. Nichols, judges.

Pottawatomie precinct, at the meeting-house; F. Brown, J. Grant, S. B. Morse, judges.

Hampden precinct, at the house of W. A. Ela; W. A. Ela, Chauncey Morse, George Law, judges.

Sugar Creek precinct, at the house of Silas Young; Silas Young, James W. Dudley, William Dyer, judges.

Little Sugar Creek precinct, at the house of Isaac D. Stockton; I. D. Stockton, Thomas Sears, James Osborn, judges.

Little Osage precinct, at Miller's store; Thomas Osborn, Mr. Miller, Mr. Fawbus, judges.

Osage precinct, at the house of Thomas Polks; Mr. Wycoff, Mr. ——, Mr. ——, judges.

Sixth senatorial district.—Scott's Town precinct, at the house of Mr. Vandevre; T. Crabtree, Isaac Chatham, F. S. Froscel, judges.

Titus precinct, at the house of J. B. Titus, on the Santa Fé road; J. B. Titus, John Drew, W. Lord, judges.

Council Grove precinct, at the mission house; J. Goodell, G. H. Rees, B. Wright, judges.

Waubonsa precinct, at the house of John H. Nesbit, in Waubonsa; E. R. McCurdy, J. M. Bisby, D. B. Hiatt, judges.

Mill Creek precinct, at the house of J. E. Hoenick; J. E. Hoenick, ——, ——, judges.

Ashland precinct, at the house of —— ——; Mr. Adams, ——, ——, judges.

Clark Creek precinct, at some suitable place near the junction of Clark and Humboldt Creeks; William McCready, Mr. Berry, Mr. Mitchell, judges.

Seventh senatorial district.—Pawnee precinct, at Loder & Shaw's store, in Pawnee; S. P. Higgins, W. M. McClure, L. Knapp, judges.

Big Blue precinct, at the house of S. B. Dyer, in Juniata; J. Stewart, S. D. Houston, J. T. Goodenow, judges.

Rock Creek precinct, at the house of Mr. Haitt; James Darnell, Charles Jenkins, Henry Remmell, judges.

Eighth senatorial district.—Black Vermillion precinct, at some suitable house in said precinct on the Vermillion Branch of the Blue River; John Shmidt, Mr. Hollingburg, Mr. Alvey, judges.

St. Mary's precinct, at the house of B. F. Bertrand; Dr. Palmer, C. Garrett, C. Dean, judges.

Silver Lake precinct, at some suitable house at Indianola; E. Kennedy, J. W. Hopkins, John G. Thompson, judges.

Ninth senatorial district.—Daton precinct, at the store of Bainter & Hoover; Lewis Hoover, Nathan Adams, G. B. Hall, judges.

Grasshopper Falls precinct, at the house of the mill company; S. H. Dunn, John W. Clark, J. B. Ross, judges.

Whitfield precinct, at the house of J. B. Chapman; Thomas Jenners, Vincent D. Cohee, James A. Gray, judges.

Tenth senatorial district.—California precinct, at the house of W. W. Moore; W. W. Moore, W. Jackson, judges.

Iowa Point precinct, at the house of Mr. McCall; Mr. Hanley, Mr. Pader, judges.

Voters on Independence and Deer Creeks will vote at Doniphan.

St. Jo. Bottom precinct, at the house of B. Harden; George Bryant, H. Smallwood, A. A. Jamison, judges.

Burr Oak precinct, at the house of Mr. Wilson; Mr. Brock, Mr. Wilson, Thomas McCulloch, judges.

Palermo precinct, at the house of R. Martin; John White, R. Ladd, N. White, judges.

Doniphan precinct, at Collins' Mill; David Lee, D. W. Fields, J. McNamee, judges.

Wolf River precinct, at the house of Mr. Searl; Mr. Searl, Mr. Ulse, Mr. Richardson, judges.

Eleventh senatorial district.—Kickapoo precinct, at some suitable house in Kickapoo City; Dr. McCormas, Mr. Zimmerman, Mr. Boyd, judges.

Port William precinct, at the house of Dr. Hathaway; Dr. Hathaway, Mr. Oliphant, Mr. Potter, judges.

Mount Pleasant precinct, at the house of M. A. Potter; Mr. Ridgway, B. Elliott, M. A. Potter, judges.

Oceana precinct, at the store of Crosby & Co.; Archibald Elliott, A. Landrum, S. J. H. Snyder, judges.

Atchinson precinct, at the house of Mr. Bay; R. Mecubbins, Mr. Bay, Henry Williams, judges.

Twelfth senatorial district.—Leavenworth precinct, at the office of Gardiner & Dodge; Adam Fisher, Thomas H. Doyle, Hide Hook, judges.

Easton precinct, at the house of T. A. Maynard; T. A. Maynard, G. J. Clark, Wm. Pennock, judges.

Wyandot precinct, at the council-house in Wyandot City; Abelard Guthrie, G. J. Clark, Ebenezer Lane, judges.

The executive committee of Kansas Territory is authorized to appoint additional precincts and judges therefor.

INSTRUCTIONS TO JUDGES.

SEC. 7. The three judges will provide for each poll ballot-boxes for depositing the ballots cast by electors; shall appoint two clerks, all of whom shall be sworn or affirmed to discharge the duties of their respective offices impartially and with fidelity; and the judges and clerks shall have power to administer the oath or affirmation to each other; and the said judges shall open said election at 9 o'clock a. m., at the place designated in each precinct, and close the same at 6 o'clock p. m. In case any of the officers appointed fail to attend, the officer or officers in attendance shall supply their places, and in the event of all of them failing to attend, the qualified voters shall supply their places, and the said judges shall make out duplicate returns of said election, seal up and transmit the same within ten days to the chairman of the executive committee, one copy of which is to be laid before the general assembly. If, at the time of holding said election, it shall be inconvenient, from any cause whatever, that would disturb or prevent the voters of any election-precinct in the Territory from the free and peaceable exercise of the elective franchise, the officers are hereby authorized to adjourn said election into any other precinct in the Territory, and to any other day they may see proper, of the necessity of which they shall be the exclusive judges, at which time and place the qualified voters may cast their votes.

SEC. 8. Until otherwise provided by law, the chairman of the executive committee of Kansas Territory shall announce by proclamation the result of the election, and the names of persons elected to office.

SEC. 9. No person shall be entitled to a seat in the first general assembly at its organi-

zation except the members whose names are contained in the proclamation of the chairman of the executive committee, but after the general assembly is organized, seats may be contested in the usual way.

SEC. 10. Certificates of indebtedness may be issued by the territorial executive committee for all necessary expenses accruing in the formation of the State government, not exceeding twenty-five thousand dollars: *Provided*, No certificate shall be issued except for legitimate expenses. All claims shall be made in writing, and shall be numbered and kept on file in the secretary's office, and all certificates of indebtedness shall be signed by the president and secretary, and countersigned by the treasurer, and numbered to correspond with the number of the claim or bill for which it was issued. The certificate shall bear 10 per cent. interest per annum.

SEC. 11. The first general assembly shall provide by law for the redemption of the certificates of indebtedness issued under the provisions of the foregoing section.

SEC. 12. Until the great seal of the State of Kansas is agreed upon and procured, as provided for in the eleventh section of the fifth article of this constitution, the governor shall use his own private seal as the seal of state.

SEC. 13. At the election for the ratification of this constitution, and the first election for State officers, a representation in the Congress of the United States, and members of the general assembly of this State, an actual residence in the Territory of thirty days immediately preceding said election shall be sufficient as a qualification for the elector, and an actual residence of ninety days for the candidates: *Provided*, Said electors and candidates possess all the other qualifications required by the provisions of this constitution.

SEC. 14. The first legislature shall provide by law for the enforcement of the provisions of the sixth section of the bill of rights on or before the 4th day of July, 1857, as to all persons in the Territory before the adoption of this constitution, and as to all others the provisions of said section shall operate from and after the ratification of this constitution by the people.

J. H. LANE, *President.*

SAM. C. SMITH, *Secretary.*
CHAS. A. FOSTER, *Assistant Secretary.*

CONSTITUTION OF KANSAS—1857.*

PREAMBLE.

We, the people of the Territory of Kansas, by our representatives in convention assembled, at Lecompton, in said Territory, on Monday, the fourth day of September, one thousand eight hundred and fifty-seven, and of the independence of the United States of America the eighty-second year, having the right of admission into the Union as one of the United States of America, consistent with the Federal Constitution and by virtue of the treaty of cession by France to the United States of the province of Louisiana, made and entered into on the thirtieth day of April, one thousand eight hundred and three, and by virtue of, and in accordance with, the act of Congress passed March the thirtieth, one thousand eight hundred and fifty-four, entitled "An act to organise the

* This constitution was adopted at a convention which met at Lecompton, September 5, 1857, adjourned for a month, and completed its labors November 7, 1857. It was immediately forwarded to President Buchanan. The clause sanctioning slave holding was submitted to the people of Kansas, and ratified December 31, 1857, receiving 6,226 votes, against 589 votes. The entire constitution, with its conditional propositions, was submitted to the people of Kansas by its advocates and by its opponents, and each claimed the support of a majority. It was claimed that on the 21st of December, 1858, the constitution with slavery was ratified, receiving 6,143 votes, against 589 for the constitution without slavery; and it was also claimed that on the 4th of January, 1859, the constitution was rejected, receiving 138 votes for it with slavery, 24 votes for it without slavery, and 10,126 votes against it.

Territories of Nebraska and Kansas," in order to secure to ourselves and to our posterity the enjoyment of all the rights of life, liberty, and property, and the free pursuit of happiness, do mutually agree with each other to form ourselves into a free, independent, and sovereign State, by the name and style of the State of Kansas, and do ordain and establish the following constitution for the government thereof:

ARTICLE I.

BOUNDARIES.

We do declare and establish, ratify and confirm, the following as the permanent boundaries of the said State of Kansas, that is to say: Beginning at a point on the western boundary of the State of Missouri where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence following said boundary westward to the east boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning.

ARTICLE II.

COUNTY BOUNDARIES.

No county now established which borders upon the Missouri River, or upon either bank of the Kansas River, shall ever be reduced by the formation of new counties to less than twenty miles square; nor shall any other county now organized, or hereafter to be organized, be reduced to less than five hundred square miles.

ARTICLE III.

DISTRIBUTION OF POWERS.

The power of the government of the State of Kansas shall be divided into three separate departments—the executive, the legislative, and the judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. The chief executive power of this State shall be vested in a governor, who shall hold his office for two years from the time of his installation.

SEC. 2. The governor shall be elected by the qualified electors of the State. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the secretary of state, who shall deliver them to the speaker of the house of representatives at the next ensuing session of the legislature, during the first week of which session the speaker shall open and publish them in the presence of both houses of the legislature. The person having the highest number of votes shall be governor; but if two or more shall be equal, and having received the highest number of votes, then one of them shall be chosen governor by the joint ballot of both houses of the legislature. Contested elections for governor shall be determined by both houses of the legislature in such manner as may be prescribed by law.

SEC. 3. The governor shall be at least thirty years of age, shall have been a citizen

of the United States for twenty years, shall have resided in this State at least five years next preceding the day of his election, or from the time of the formation of this constitution, and shall not be capable of holding the office more than four years in any term of six years.

SEC. 4. He shall, at stated terms, receive for his services a compensation which shall be fixed by law, and shall not be increased or diminished during the term for which he shall be elected.

SEC. 5. He shall be commander-in-chief of the Army and Navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 6. He may require information in writing from officers in the executive department on any subject relating to the duties of their respective offices.

SEC. 7. He may, in cases of emergency, convene the legislature at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy or disease; and in case of a disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he may think proper, not beyond the next stated meeting of the legislature.

SEC. 8. He shall, from time to time, give to the legislature information of the state of the government, and recommend to their consideration such measures as he may deem necessary and expedient.

SEC. 9. He shall take care that the laws be faithfully executed.

SEC. 10. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons and remit fines; and in cases of forfeitures, to stay the collection until the end of the next session of the legislature, and to remit forfeitures by and with the advice and consent of the senate. In cases of treason he shall have power to grant reprieves by and with the advice and consent of the senate, but may respite the sentence until the end of the next session of the legislature.

SEC. 11. All commissions shall be in the name and by the authority of the State of Kansas, be sealed with the great seal, and signed by the governor, and attested by the secretary of state.

SEC. 12. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and the present seal of this Territory shall be the seal of the State until otherwise directed by the legislature.

SEC. 13. All vacancies not provided for in this constitution shall be filled in such manner as the legislature may prescribe.

SEC. 14. The secretary of state shall be elected by the qualified electors of the State, and shall continue in office during the term of two years, and until his successor is qualified. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the legislature, and shall perform such other duties as may be required by law.

SEC. 15. Every bill which shall have passed both houses of the legislature shall be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it shall have originated, which shall enter the objections at length upon their journals, and proceed to reconsider it. If, after such reconsideration, two-thirds of the house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by two-thirds of that house, it shall become a law; but in such case the votes of each house shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journals of each house, respectively. If any bill shall not be returned by the governor within six days (Sundays excepted) after it shall have been presented to him, the same shall become a law in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not become a law.

SEC. 16. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except resolutions for the purpose of obtaining the joint action of both houses, and on questions of adjournment, shall be presented to the governor,

and, before it shall take effect, be approved by him; or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 17. A lieutenant-governor shall be elected at the same time and for the same term as the governor, and his qualifications and the manner of his election shall be the same in all respects.

SEC. 18. In case of the removal of the governor from office, or of his death, failure to qualify, resignation, removal from the State, or inability to discharge the powers and duties of the office, the said office, with its compensation, shall devolve upon the lieutenant-governor, and the legislature shall provide by law for the discharge of the executive functions in other necessary cases.

SEC. 19. The lieutenant-governor shall be the president of the senate, but shall have no vote except in the case of a tie, when he may give the casting vote; and while acting as such shall receive a compensation equal to that allowed to the speaker of the house of representatives.

SEC. 20. A sheriff and one or more coroners, a treasurer and surveyor, shall be elected in each county by the qualified electors thereof, who shall hold their office for two years, unless sooner removed, except that the coroner shall hold his office until his successor be duly qualified.

SEC. 21. A State treasurer and auditor of public accounts shall be elected by the qualified electors of the State, who shall hold their offices for the term of two years, unless sooner removed.

ARTICLE V.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority of this State shall be vested in a legislature, which shall consist of a senate and house of representatives.

SEC. 2. No person holding office under the authority of the United States, except postmasters, or any lucrative office under the authority of this State, shall be eligible to or have a seat in the legislature; but this provision shall not extend to township officers, justices of the peace, notaries public, or militia officers.

SEC. 3. No person who has been, or may hereafter be, convicted of a penitentiary offence, or of an embezzlement of the public funds, shall hold any office in this State; nor shall any person holding public money for disbursement or otherwise have a seat in the legislature, until he shall have accounted for and paid such money into the treasury.

SEC. 4. The members of the house of representatives shall be elected by the qualified electors, and shall serve for the term of two years from the close of the general election and no longer.

SEC. 5. The senators shall be chosen for the term of four years, at the same time, in the same manner, and at the same places as are herein provided for members of the house of representatives.

SEC. 6. At the first session of the legislature the senate shall, by lot, divide their senators into two classes; and the seats of the senators of the first class shall be vacated at the expiration of the second year, and of the second class at the expiration of the fourth year, so that one-half, as near as may be, may be chosen thereafter every two years for the term of four years.

SEC. 7. The number of senators shall not be less than thirteen nor more than thirty-three; and at any time when the number of senators is increased, they shall be annexed by lot to one of the two classes, so as to keep them as nearly equal in number as possible.

SEC. 8. The number of members of the house of representatives shall not be less than thirty-nine, nor more than one hundred.

SEC. 9. The style of the laws of this State shall be, "*Be it enacted by the legislature of the State of Kansas.*"

SEC 10. Each house may determine the rules of its own proceedings, punish its members for disorderly behavior, and, with the consent of two-thirds, may expel a

member, but not a second time for the same offence. The names of the members voting on the question shall be spread upon the journal.

SEC. 11. Each house during the session may, in its discretion, punish by fine, imprisonment, or both, any person not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings: *Provided*, Such fine shall not exceed two hundred dollars, or such imprisonment shall not extend beyond the end of the session.

SEC. 12. Each house of the legislature shall keep a journal of its proceedings, and cause the same to be published as soon after the adjournment as may be provided by law.

SEC. 13. Neither house during the session of the legislature shall, without the consent of the other, adjourn for more than three days, (Sundays excepted,) nor to any other place than that in which they may be sitting.

SEC. 14. The senate, when assembled, shall choose its officers, and the house of representatives shall choose a speaker and its other officers, and each branch of the legislature shall be the judge of the qualifications, elections, and returns of its members.

SEC. 15. A majority of each house of the legislature shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner as each house may prescribe.

SEC. 16. Each member of the legislature shall receive from the public treasury such compensation for his services as may be fixed by law; but no increase of compensation shall take effect during the term for which the members are elected when such law passed.

SEC. 17. Bills may originate in either house, but may be altered, amended, or rejected by the other, and all bills shall be read by sections on three several days, except, on an extraordinary occasion, two-thirds of the members may dispense with such reading, but in no case shall a bill be passed without having once been read; and every bill having passed both houses shall be signed by the speaker and president in the presence of their respective houses.

SEC. 18. The legislature shall provide by law for filling all vacancies that may occur in either house by the death, resignation, or otherwise of any of its members.

SEC. 19. The doors of each house shall be open, except on such occasions as, in the opinion of the house, the public safety may require secrecy.

SEC. 20. Every law enacted by the legislature shall embrace but one subject, and that shall be expressed in its title, and any extraneous matter introduced in a bill which shall pass shall be void; and no law shall be amended by its title, but in such case the act or section amended shall be reënacted and published at length.

SEC 21. Every act and joint resolution shall be plainly worded, avoiding, as far as practicable, the use of technical terms.

SEC. 22. The legislature shall meet every two years at the seat of government.

SEC. 23. The legislature shall provide for an enumeration of inhabitants by law. An apportionment of representatives in the legislature shall be provided by law according to population, as nearly as may be.

SEC. 24. The legislature shall have no power to grant divorces, to change the names of individuals, or direct the sales of estates belonging to infants or other persons laboring under legal disabilities, by special legislation, but by general laws shall confer such powers on the courts of justice.

SEC. 25. It shall be the duty of all civil officers of this State to use due diligence in the securing and rendition of persons held to service or labor in this State, either of the States or Territories of the United States; and the legislature shall enact such laws as may be necessary for the honest and faithful carrying out of this provision of the constitution.

ELECTION DISTRICTS.

At the first election holden under this constitution for members of the State legislature, the representative and senatorial districts shall be as follows: The first representative district shall consist of Doniphan County, and be entitled to four representa-

tives; the second, Atchison, four representatives; the third, Leavenworth, eight representatives; the fourth, Brown and Nemaha, one representative; the fifth, Calhoun and Pottawatomie, one representative; the sixth, Jefferson, two representatives; the seventh, Marshall and Washington, one representative; the eighth, Riley, one representative; the ninth, Johnson, four representatives; the tenth, Lykins, one representative; the eleventh, Linn, two representatives; the twelfth, Bourbon, two representatives; the thirteenth, McGee, Dorn, and Allen, one representative; the fourteenth, Douglas, five representatives; the fifteenth, Anderson and Franklin, one representative; the sixteenth, Shawnee, two representatives; the seventeenth, Weller and Coffee, one representative; the eighteenth, Woodson, Wilson, Godfrey, Greenwood, and Madison, one representative; the nineteenth, Breckenridge and Richardson, one representative; the twentieth, Davis, Wise, Butler, Hunter, and that portion of country west, one representative—in all, forty-four representatives. The first senatorial district shall be Doniphan County, and be entitled to one senator; the second, Atchison, one senator; the third, Doniphan and Atchison, one senator; the fourth, Leavenworth, three senators; the fifth, Brown, Nemaha, and Pottawatomie, one senator; the sixth, Riley, Marshall, Dickinson, and Washington, one senator; the seventh, Jefferson and Calhoun, one senator; eighth, Johnson, two senators; the ninth, Lykins, Anderson, and Franklin, one senator; the tenth, Linn, one senator; the eleventh, Bourbon and McGee, one senator; the twelfth, Douglas, two senators; the thirteenth, Shawnee, one senator; the fourteenth, Dorn, Allen, Wilson, Woodson, Godfrey, Greenwood, Madison, and Coffee, one senator; the fifteenth, Richardson, Davis, Wise, Breckenridge, Butler, Hunter, and all west of Davis, Wise, Butler, and Hunter, one senator; the entire number of senators, nineteen.

ARTICLE VI.

JUDICIARY.

SECTION 1. This judicial powers of this State shall be vested in one supreme court, circuit courts, chancery courts, courts of probate, and justices of the peace, and such other inferior courts as the legislature may, from time to time, ordain and establish.

SEC. 2. The supreme court, except in cases otherwise directed in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may from time to time be prescribed by law: *Provided*, That the supreme court shall have power to issue writs of injunction, *mandamus*, *quo warranto*, *habeas corpus*, and such other remedial and original writs as may be necessary to give a general superintendence and control of inferior jurisdictions.

SEC. 3. There shall be held annually, at the seat of government, two sessions of the supreme court, at such times as the legislature may direct.

SEC. 4. The supreme court shall consist of one chief justice and two associate justices.

SEC. 5. The supreme court may elect a clerk and reporter, who shall respectively receive such compensation as the legislature may prescribe.

SEC. 6. The State shall be divided into convenient circuits, and for each circuit there shall be elected a judge, who shall, at the time of his election and as long as he continues in office, reside in the circuit for which he has been elected.

SEC. 7. The circuit courts shall have original jurisdiction of all matters, civil and criminal, within this State not otherwise excepted in this constitution; but in civil cases, only where the matter in controversey shall exceed the sum of one hundred dollars.

SEC. 8. A circuit court shall be held in each county in the State twice in every year, at such times and places as may be prescribed by law; and the judges of the several circuit courts may hold courts for each other when they may deem it advisable, and shall do so when directed by law.

SEC. 9. The legislature may establish a court or courts of chancery with original

and appellate equity jurisdiction, and until the establishment of such court or courts the said jurisdiction shall be vested in the judges of the circuit courts respectively; but the judges of the several circuit courts shall have power to issue writs of injunction returnable to the court of chancery.

SEC. 10. The legislature shall establish within each county in the State a court of probate for the granting of letters testamentary of the administration and orphans' business, and the general superintendence of the estates of deceased persons, and such other duties as may be prescribed by law; but in no case shall they have jurisdiction in matters of civil or criminal law.

SEC. 11. A competent number of justices of the peace in and for each county shall be elected in such mode and for such term of office as the legislature may direct. Their jurisdiction in civil matters shall be limited to cases in which the amount does not exceed one hundred dollars; and in all cases tried by justices of the peace the right of appeal shall be secured, under such rules and regulations as may be prescribed by law.

SEC. 12. The chief justice and associate justices of the supreme court, and judges of the circuit court and courts of chancery, shall, at stated times, receive for their services a compensation which shall be fixed by law, and shall not be diminished during their continuance in office; but they shall receive no fees, no perquisites of office, nor hold any other office of profit or trust under this State, the United States or either of the other States, or any other power, during their continuance in office.

SEC. 13. The chief justice and associate justices of the supreme court shall be elected by the qualified voters of the whole State, the judges of the circuit courts by the qualified voters of their respective circuits, and the judges of the chancery courts shall be elected by the qualified voters of their respective chancery divisions, at such times and places as may be prescribed by law; but said election shall not be on the same day that the election of members of the legislature is held.

SEC. 14. All vacancies in the office of chief justice and associate justices of the supreme court, and judges of the circuit court, court of chancery, and probate court, shall be filled by appointment made by the governor for the time being, but the governor shall, immediately upon the receipt of information of a vacancy aforesaid, order an election to fill such vacancy, first giving sixty days' notice of such election.

SEC. 15. The chief justice and associate justices of the supreme court shall hold their offices for and during the period of six years from the date of their election, and until their successors shall be qualified, and provision shall be made by law for classifying those elected, so that the chief justice or one of the said associate justices of the supreme court shall be elected every two years. The judges of the circuit, chancery, and probate courts shall hold their offices for and during the term of four years from the date of their election, and until their successors shall be qualified.

SEC. 16. Clerks of the circuit courts and courts of probate shall be elected by the qualified electors in each county, and all vacancies in such office shall be filled in such manner as the law may direct.

SEC. 17. The chief justice and associate justices of the supreme court, by virtue of their offices, shall be conservators of the peace throughout the State, the judges of the circuit court throughout their respective circuits, and the judges of the inferior courts throughout their respective counties.

SEC. 18. The style of all process shall be, "The State of Kansas," and all prosecutions shall be carried on in the name and by the authority of the State of Kansas, and shall conclude "against the peace and dignity of the same."

SEC. 19. There shall be an attorney-general of the State, who shall be elected by the qualified voters thereof, and as many district attorneys as the legislature may deem necessary, to be elected by the qualified voters of their respective circuits, who shall hold their offices for the term of four years from the date of their election, and shall receive for their services such compensation as may be established by law, which shall not be diminished during their continuance in office.

SEC. 20. Vacancies occurring in the office of attorney-general, district attorneys, clerk of the circuit court, clerk of the court of probate, justices of the peace, and constables, shall be filled in such manner as shall be provided by law.

SEC. 21. The house of representatives shall have the sole power of impeachment.

SEC. 22. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 23. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office, and of disqualification to hold any office of honor, trust, or profit under the State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment according to law.

ARTICLE VII.

SLAVERY.

SECTION 1. The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same, and as inviolable as the right of the owner of any property whatever.

SEC. 2. The legislature shall have no power to pass laws for the emancipation of slaves without the consent of the owners, or without paying the owners previous to their emancipation a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to the State from bringing with them such persons as are deemed slaves by the laws of any one of the United States or Territories, so long as any person of the same age or description shall be continued in slavery by the laws of this State: *Provided*, That such person or slave be the *bona-fide* property of such emigrants: *And provided also*, That laws may be passed to prohibit the introduction into this State of slaves who have committed high crimes in other States or Territories. They shall have power to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have power to oblige the owners of slaves to treat them with humanity, to provide for them necessary food and clothing, to abstain from all injuries to them extending to life or limb, and, in case of their neglect or refusal to comply with the direction of such laws, to have such slave or slaves sold for the benefit of the owner or owners.

SEC. 3. In the prosecution of slaves for crimes of higher grade than petit larceny, the legislature shall have no power to deprive them of an impartial trial by a petit jury.

SEC. 4. Any person who shall maliciously dismember or deprive a slave of life shall suffer such punishment as would be inflicted in case the like offence had been committed on a free white person, and on the like proof, except in case of insurrection of such slave.

ARTICLE VIII.

ELECTIONS AND RIGHTS OF SUFFRAGE.

SECTION 1. Every male citizen of the United States, above the age of twenty-one years, having resided in this State one year, and in the county, city, or town in which he may offer to vote three months next preceding any election, shall have the qualifications of an elector, and be entitled to vote at all elections. And every male citizen of the United States, above the age aforesaid, who may be a resident of the State at the time that this constitution shall be adopted, shall have the right of voting as aforesaid; but no such citizen or inhabitant shall be entitled to vote except in the county in which he shall actually reside at the time of the election.

SEC. 2. All voting by the people shall be by ballot.

SEC. 3. Electors, during their attendance at elections, going to and returning therefrom, shall be privileged from arrest in all cases except treason, felony, and breach of the peace.

SEC. 4. No elector shall be obliged to do militia duty on the days of election, except in time of war or public danger.

SEC. 5. No elector shall be deemed to have lost his residence in this State by reason of his absence on business of his own, or of the United States, or of this State.

SEC. 6. No person employed in the military, naval, or marine service of the United States, stationed in this State, shall, by reason of his services therein, be deemed a resident of this State.

SEC. 7. No person shall be elected or appointed to any office in this State, civil or military, who shall not be possessed of the qualifications hereinbefore prescribed for an elector.

SEC. 8. The legislature shall have power to exclude from the privilege of voting, or being eligible to office, any person convicted of bribery, perjury, or other infamous crimes.

SEC. 9. The first general election in this State shall be held on the day and year provided by this constitution, and all general elections thereafter on the day and year provided by subsequent legislative enactment.

ARTICLE IX.

FINANCE.

SECTION 1. The rule of taxation shall be uniform, and taxes shall be levied upon such property as the legislature shall, from time to time, prescribe.

SEC. 2. The legislature shall provide for an annual tax sufficient to defray the estimated expenses of the government for each year; and whenever the expenses of any one year shall exceed the income, the legislature shall provide for levying a tax for the ensuing year sufficient, with other sources of income, to pay the deficiency as well as the estimated expenses for such ensuing year.

SEC. 3. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts, in the aggregate, shall never exceed five hundred thousand dollars. Every such debt shall be authorized by law for some purpose or purposes, to be distinctly specified therein, and a vote of a majority of all the members elected to both houses shall be necessary to the passage of such law, and such law shall provide for an annual tax to be levied sufficient to pay the interest of such debt created, and such appropriation shall not be repealed, nor the taxes postponed, until the principal and interest of such debt shall have been wholly paid.

SEC. 4. The legislature may also borrow money for the purpose of repelling invasion, suppressing insurrection, and defending the State in time of war; but the money thus raised shall be applied exclusively to the purposes for which it was raised.

SEC. 5. No scrip, certificate, or other evidence of State debt shall be issued, except for such debts as are authorized by the third or fourth sections of this article.

SEC. 6. The property of the State and counties, both real and personal, and such other property as the legislature may deem necessary for school, religious, or charitable purposes, may be exempted from taxation.

SEC. 7. No money shall at any time be paid out of the treasury except in pursuance of an appropriation by law.

SEC. 8. An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the legislature.

ARTICLE X.

REVENUE.

SECTION 1. All bills for raising revenue shall originate in the house of representatives.

SEC. 2. Taxation shall be equal and uniform, and all property on which taxes shall be levied shall be taxed in proportion to its value, to be ascertained as directed by legislative enactment, and no one species of property shall be taxed higher than another species of property of equal value on which taxes shall be levied.

SEC. 3. The legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade, or profession.

SEC. 4. The legislature shall provide for the classification of the lands of this State into three distinct classes, to be styled respectively class one, two, three; and each of these classes shall have a fixed value in so much money, upon which there shall be assessed an *ad-valorem* tax.

SEC. 5. The legislature shall provide for a capitation or poll-tax, to be paid by every able-bodied male citizen over twenty-one years and under sixty years of age; but nothing herein contained shall prevent the exemption of taxable polls in cases of bodily infirmity.

SEC. 6. The legislature shall levy a tax on all railroad incomes, proceeding from gifts of public lands, at the rate of ten cents on the one hundred dollars.

SEC. 7. No lotteries shall be authorized by law as a source of revenue.

SEC. 8. Whatever donations of lands or money that may be received from the General Government by this State shall be regarded as a source of revenue subject to a compact made with the United States by special ordinance.

ARTICLE XI.

PUBLIC DOMAIN AND INTERNAL IMPROVEMENT.

SECTION 1. It shall be the duty of the legislature to provide for the prevention of waste and damage of the public land now possessed or that may hereafter be ceded to the Territory or State of Kansas, and it may pass laws for the sale of any part or portion thereof, and, in such case, provide for the safety, security, and appropriation of the proceeds.

SEC. 2. A liberal system of internal improvements being essential to the development of the resources of the country, shall be encouraged by the government of this State; and it shall be the duty of the legislature, as soon as practicable, to ascertain by law proper objects of improvement, in relation to roads, canals, and navigable streams, and to provide for a suitable application of such funds as may be appropriated for such improvements.

ARTICLE XII.

CORPORATIONS.

SECTION 1. Corporations may be formed under a general law, but the legislature may by special act create bodies-politic for municipal purposes, where the objects of the corporations cannot be attained under it; all general laws or special acts enacted under the provisions of this section may be altered, amended, or repealed by the legislature at any time.

SEC. 2. No corporation shall take private property for public use without first having the consent of the owner, or where the necessity thereof being first established by a verdict of a jury, and the value thereof assessed and paid.

SEC. 3. It shall be the duty of the legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses.

SEC. 4. The legislature may incorporate banks of deposit and exchange, but such banks shall not issue any bills, notes, checks, or other paper as money.

SEC. 5. The legislature may incorporate one bank of discount and issue, with not more than two branches: *Provided*, That the act incorporating the said bank and branches thereof shall not take effect until it shall be submitted to the people at the general election next succeeding the passage of the same, and shall have been approved by a majority of the electors voting at such election.

SEC. 6. The said bank and branches shall be mutually liable for each other's debts or liabilities for all paper-credits or bills issued representing money; and the stockholders in said bank or branches shall be individually responsible to an amount equal to the stock held by them for all debts or liabilities of said bank or branches, and no

law shall be passed sanctioning, directly or indirectly, the suspension by said bank or its branches of specie payment.

SEC. 7. The State shall not be a stockholder in any bank, nor shall the credit of the State be given or loaned in aid of any person, association, or incorporation, nor shall the State become a stockholder in any corporation or association.

ARTICLE XIII.

MILITIA.

SECTION 1. The militia of this State shall consist of all the able-bodied male citizens of the State between the ages of eighteen and forty-five years, except such citizens as are now, or hereafter may be, exempted by the laws of the United States or of this State.

SEC. 2. Any citizen whose religious tenets conflict with bearing arms, shall not be compelled to do militia duty in time of peace, but shall pay such an equivalent for personal services as may be prescribed by law.

SEC. 3. All militia officers shall be elected by the persons subject to military duty within the bounds of their several companies, battalions, regiments, brigades, and divisions, under such rules and regulations as the legislature may from time to time direct and establish.

ARTICLE XIV.

EDUCATION.

SECTION 1. A general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, schools and the means of education shall be forever encouraged in this State.

SEC. 2. The legislature shall take measures to preserve from waste and damage such lands as have been, or hereafter may be, granted by the United States, or lands or funds which may be received from other sources, for the use of schools within this State, and shall apply the funds which may arise from such lands, or from any other source, in strict conformity with the object of the grant.

SEC. 3. The legislature shall, as soon as practicable, establish one common school (or more) in each township in the State, where the children of the township shall be taught gratis.

SEC. 4. The legislature shall have power to make appropriations from the State treasury for the support and maintenance of common schools whenever the funds accruing from the lands donated by the United States, or the funds received from other sources, are insufficient for that purpose.

SEC. 5. The legislature shall have power to pass laws for the government of all common schools within this State.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. Lecompton shall be the seat of government until otherwise directed by law, two-thirds of each house of the legislature concurring in the passage of such law.

SEC. 2. Every person chosen or appointed to any office under this State, before entering upon the discharge of its duties, shall take an oath or affirmation to support the Constitution of the United States, the constitution of this State, and all laws made in pursuance thereof, and faithfully to demean himself in the discharge of the duties of his office.

SEC. 3. The laws, public records, and the written, judicial, and legislative proceed-

ings of the State, shall be conducted, promulgated, and preserved in the English language.

SEC. 4. Aliens who are or who may hereafter become *bona-fide* residents of this State, shall enjoy the same rights, in respect to the possession, inheritance, and enjoyment of property, as native-born citizens.

SEC. 5. No county-seat shall be removed until the point to which it is proposed to be removed shall be fixed by law, and a majority of the voters of the county voting on the question shall have voted in favor of its removal to such point.

SEC. 6. All property, both real and personal, of the wife, owned or claimed by marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property, and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property as to that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 7. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 8. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

BILL OF RIGHTS.

That the great and essential principles of liberty and free government may be recognized and established, we declare—

1. That all freemen, when they form a social compact, are equal in rights, and that no man or set of men are entitled to exclusive separate public emoluments or privileges but in consideration of public services.

2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper.

3. That all persons have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience, and no person can of right be compelled to attend, erect, or support any place of worship or maintain any ministry against his consent. That no human authority can in any case whatever interfere with the rights of conscience, and that no preference shall ever be given to any religious establishment or mode of worship.

4. That the civil rights, privileges, or capacities of a citizen shall in nowise be diminished or enlarged on account of his religion.

5. That all elections shall be free and equal.

6. That the right of trial by jury shall remain inviolate.

7. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right.

8. The people shall be secure in their persons, houses, papers, and possessions from unreasonable seizures and searches, and no warrant to search any place, or to seize any person or thing, shall issue without probable cause, supported by oath or affirmation. In all criminal prosecutions the accused has a right to be heard by himself or counsel; to demand the nature and cause of the accusation, and have a copy thereof; to be confronted by the witness or witnesses against him; to have compulsory process for obtaining witnesses in his favor, and in all prosecutions by indictments or informations a speedy public trial by an impartial jury of the county or district in which the offence shall have been committed. He shall not be compelled to give evidence against himself, nor shall he be deprived of his life, liberty, or property, but by due course of law.

9. That no freeman shall be taken or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner destroyed or deprived

of his life, liberty, or property, but by the judgment of his peers or the law of the land.

10. No person, for the same offence, shall twice be put in jeopardy of life, limb, or liberty, nor shall any person's property be taken or applied to the public use, unless compensation be made therefor.

11. That all penalties shall be reasonable, and proportionate to the nature of the offence.

12. No person shall be held to answer a capital or otherwise infamous crime, unless on the presentment or indictment of a grand jury, or by impeachment, except in cases of rebellion, insurrection, or invasion.

13. That no conviction shall work corruption of blood or forfeiture of estate.

14. That all prisoners shall be bailable by sufficient securities, unless in capital offences, where the proof is evident or the presumption great, and the privileges of *habeas corpus* shall not be suspended unless when, in the case of rebellion, insurrection, or invasion, the public safety may require it.

15. That excessive bail shall in no case be required, nor excessive fines imposed.

16. That no *ex post facto* law, nor any law impairing the obligations of contracts, shall ever be made.

17. That forfeitures and monopolies are contrary to the genius of a republic, and shall not be allowed, nor shall any hereditary emolument, privileges, or honors ever be granted or conferred in the State.

18. That the citizens have a right, in a peaceable manner, to assemble together for their common good; to instruct their representatives, and to apply to those intrusted with the power of government for redress of grievances or other purposes, by address or remonstrance.

19. That the citizens of this State shall have a right to keep and bear arms for their common defence.

20. That no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

21. The military shall be kept in strict subordination to the civil power.

22. Emigration to or from this State shall not be prohibited.

23. Free negroes shall not be permitted to live in this State under any circumstances.

24. This enumeration of rights shall not be construed to deny or disparage others retained by the people; and to guard against any encroachments on the rights herein retained, or any transgression of any of the higher power herein delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate, and that all laws contrary thereto, or to the other provisions herein contained, shall be void.

SCHEDULE.

SECTION 1. That no inconvenience may arise by reason of a change from a territorial to a permanent State government, it is declared that all rights, actions, prosecutions, judgments, claims, and contracts, as well of individuals as of bodies-corporate, except the bill incorporating banks by the last territorial legislature, shall continue as if no such change had taken place, and all processes which may have issued under the authority of the Territory of Kansas shall be as valid as if issued in the name of the State of Kansas.

SEC. 2. All laws now of force in the Territory of Kansas which are not repugnant to this constitution shall continue and be of force until altered, amended, or repealed, by a legislature assembled under the provisions of this constitution.

SEC. 3. All fines, penalties, and forfeitures to the Territory of Kansas shall inure to the use of the State of Kansas.

SEC. 4. All recognizances heretofore taken shall pass to, and be prosecuted in, the name of the State of Kansas, and all bonds executed to the governor of the Territory, or to any other officer of the court in his or their official capacity, shall pass to the governor and corresponding officers of the State authority and their successors

in office, and for the use therein expressed, and may be sued for and recovered accordingly; and all the estates or property, real, personal, or mixed, and all judgments, bonds, specialties, choses in action, and claims or debts of whatever description, of the Territory of Kansas, shall inure to and vest in the State of Kansas, and be sued for and recovered in the same manner and to the same extent as the same could have been by the Territory of Kansas.

SEC. 5. All criminal prosecutions and penal actions which may have arisen before the change from a territorial to a State government, and which shall then be pending, shall be prosecuted to judgment in the name of the State of Kansas. All actions at law and suits in equity which may be pending in the courts of the Territory of Kansas, at the time of a change from a territorial to a State government, may be continued and transferred to any court of the State which shall have jurisdiction of the subject-matter thereof.

SEC. 6. All officers, civil and military, holding their offices under authority of the Territory of Kansas, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the State.

SEC. 7. This constitution shall be submitted to the Congress of the United States at its next ensuing session, and as soon as official information has been received that it is approved by the same, by the admission of the State of Kansas as one of the sovereign States of the United States, the president of this convention shall issue his proclamation to convene the State legislature at the seat of government, within thirty-one days after publication. Should any vacancy occur, by death, resignation, or otherwise, in the legislature, or other office, he shall order an election to fill such vacancy: *Provided, however,* In case of removal, absence, or disability of the president of this convention to discharge the duties herein imposed on him, the president *pro tempore* of this convention shall perform said duties, and in case of absence, refusal, or disability of the president *pro tempore*, a committee consisting of seven, or a majority of them, shall discharge the duties required of the president of this convention.

Before this constitution shall be sent to Congress, asking for admission into the Union as a State, it shall be submitted to all the white male inhabitants of this Territory, for approval or disapproval, as follows: The president of this convention shall, by proclamation, declare that on the twenty-first day of December, one thousand eight hundred and fifty seven, at the different election-precincts now established by law, or which may be etablished as herein provided, in the Territory of Kansas, an election shall be held, over which shall preside three judges, or a majority of them, to be appointed as follows: The president of this convention shall appoint three commissioners in each county in the Territory, whose duty it shall be to appoint three judges of election in the several precincts of their respective counties, and to establish precincts for voting, and to cause polls to be opened, at such places as they may deem proper in their respective counties, at which election the constitution framed by this convention shall be submitted to all the white male inhabitants of the Territory of Kansas in the said Territory upon that day, and over the age of twenty-one years, for ratification or rejection, in the following manner and form: The voting shall be by ballot. The judges of said election shall cause to be kept two poll-books by two clerks, by them appointed. The ballots cast at said election shall be endorsed, "Constitution with slavery," and "Constitution with no slavery." One of said poll-books shall be returned within eight days to the president of this convention, and the other shall be retained by the judges of election and kept open for inspection. The president, with two or more members of this convention, shall examine said poll-books, and if it shall appear upon said examination that a majority of the legal votes cast at said election be in favor of the "Constitution with slavery," he shall immediately have the same transmitted to the Congress of the United States, as hereinbefore provided; but if, upon such examination of said poll-books, it shall appear that a majority of the legal votes cast at said election be in favor of the "Constitution with no slavery," then the article providing for slavery shall be stricken from this constitution by the president of this convention, and slavery shall no longer exist in the State of Kansas, except that the right of property in slaves now in this Territory shall in no manner be interfered with, and shall have transmitted the constitution,

so ratified, (to Congress the constitution, so ratified,) to the Congress of the United States, as hereinbefore provided. In case of the failure of the president of this convention to perform the duties imposed upon him in the foregoing section, by reason of death, resignation, or otherwise, the same duties shall devolve upon the president *pro tempore*.

SEC. 8. There shall be a general election upon the first Monday in January, eighteen hundred and fifty-eight, to be conducted as the election provided for in the seventh section of this article, at which election there shall be chosen a governor, lieutenant-governor, secretary of state, State treasurer, and members of the legislature, and also a member of Congress.

SEC. 9. Any person offering to vote at the aforesaid election upon said constitution shall, if challenged, take an oath to support the Constitution of the United States, and to support this constitution, under the penalties of perjury under the territorial laws.

SEC. 10. All officers appointed to carry into execution the provisions of the foregoing sections shall, before entering upon their duties, be sworn to faithfully perform the duties of their offices, and in failure thereof be subject to the same charges and penalties as are provided in like cases under the territorial laws.

SEC. 11. The officers provided for in the preceding sections shall receive for their services the same compensation as given to officers performing similar duties under the territorial laws.

SEC. 12. The governor and all other officers shall enter upon the discharge of their respective duties as soon after the admission of the State of Kansas as one of the independent and sovereign States of the Union, as may be convenient.

SEC. 13. Oaths of office may be administered by any judge, justice of the peace, or clerk of any court of record of the Territory or the State of Kansas, until legislature may otherwise direct.

SEC. 14. After the year one thousand eight hundred and sixty-four, whenever the legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors at the next general election, two-thirds of the members of each house concurring, to vote for or against calling a convention, and if it shall appear that a majority of all citizens of the State have voted for a convention, the legislature shall, at its next regular session, call a convention, to consist of as many members as there may be in the house of representatives at the time, to be chosen in the same manner, at the same places, and by the same electors that choose the representatives; said delegates so elected shall meet within three months after said election for the purpose of revising, amending, or changing the constitution, but no alteration shall be made to affect the rights of property in the ownership of slaves.

SEC. 15. Until the legislature elected in accordance with the provisions of this constitution shall otherwise direct, the salary of the governor shall be three thousand dollars, and the salary of lieutenant-governor shall be double the pay of a State senator, and the pay of members of the legislature shall be five dollars per diem, until otherwise provided by the first legislature, which shall fix the salaries of all officers other than those elected by the people at first election.

SEC. 16. This constitution shall take effect and be in force from and after its ratification by the people, as hereinbefore provided.

Done in convention at Lecompton, in the Territory of Kansas, on the seventh day of November, in the year of our Lord one thousand eight hundred and fifty-seven, and of the Independence of the United States of America the eighty-second. In testimony whereof we have hereunto subscribed our names.

J. CALHOUN, *President*.

CHARLES J. MCILVAINE, *Secretary*.

ORDINANCE.

Whereas the government of the United States is the proprietor, or will become so, of all or most of the lands lying within the limits of Kansas, as determined under

this constitution; and whereas the State of Kansas will possess the undoubted right to tax such lands for the support of her State government, or for other proper and legitimate purposes connected with her existence as a State:

Now, therefore, be it ordained by this convention, on behalf of and by the authority of the people of Kansas, that the right aforesaid to tax such lands shall be, and is hereby, forever relinquished, if the conditions following shall be accepted and agreed to by the Congress of the United States:

SECTION 1. That sections numbered 8, 16, 24, and 36, in every township in the State, or in case either of said numbered sections are or shall be otherwise disposed of, that other lands, equal thereto in value and as contiguous as may be, shall be granted to the State, to be applied exclusively to the support of common schools.

SEC. 2. That all salt-springs, and gold, silver, copper, lead, or other valuable mines, together with the lands necessary for their full occupation and use, shall be granted to said State for the use and benefit of said State, and the same shall be used or disposed of under such terms and conditions and regulations as the legislature of said State shall direct.

SEC. 3. That 5 per centum of the proceeds of the sales of all public lands sold or held in trust or otherwise lying within the said State, whether sold before or after the admission of the State into the Union, after deducting all expenses incidental to the same, shall be paid to the said State of Kansas for the purpose following, to wit: two-fifths to be disbursed under the direction of the legislature of the State for the purpose of aiding the construction of railroads within said State, and the residue for the support of common schools.

SEC. 4. That seventy-two sections, or two entire townships, shall be designated by the President of the United States, which shall be reserved for the use of a seminary of learning, and appropriated by the legislature of said State solely to the use of said seminary.

SEC. 5. That each alternate section of land now owned, or which may hereafter be acquired by the United States, for twelve miles on each side of a line of railroad to be established or located from some point on the northern boundary of the State, leading southerly through said State in the direction of the Gulf of Mexico, and on each side of a line of railroad to be located and established from some point on the Missouri River westwardly through said State in the direction of the Pacific Ocean, shall be reserved and conveyed to said State of Kansas for the purpose of aiding in the construction of said railroad, and it shall be the duty of the Congress of the United States, in conjunction with the proper authorities of this State, to adopt immediate measures for carrying the several provisions herein contained into full effect.

CONSTITUTION OF KANSAS—1858.*

MEMORIAL.

The delegates of the people of Kansas, in convention assembled, do respectfully memorialize Congress for admission into the Union, with the accompanying constitution:

ORDINANCE.

By the authority of the people of Kansas, be it ordained by this convention, irrevocably, that the State of Kansas will never, without the consent of Congress, interfere with the title of the United States to the public domain, or unsold lands within

* This constitution was adopted at a convention which met at Mineola March 23, 1858, adjourned to Leavenworth March 25, 1858, and completed its labors April 3, 1859. It was claimed that it was submitted to the people of Kansas third Tuesday of May, A. D. 1858, and ratified, receiving 4,346 votes against 1,257 votes.



the limits of said State, or the primary right of the United States to dispose of the same, or with any regulation which Congress may prescribe for securing the title thereof to purchasers in good faith; and also that no tax or other assessment shall be imposed upon the lands belonging to the United States: *Provided*, That the conditions following shall be accepted and agreed to by the Congress of the United States: *First*. The sections numbered sixteen and thirty-six in every township, including Indian reserve or trust lands, in said State (and where either of such sections, or any part thereof, has been sold, or otherwise alienated or appropriated, other lands, equivalent thereto, as nearly contiguous as possible) shall be granted to the said State exclusively for the use of common schools. *Second*. That seventy-two sections of land shall be set apart and reserved for the use and support of four district colleges, to be located in the four equal divisions of the State; said lands to be selected by the governor of the State, subject to the approval of the Commissioner of the General Land-Office. *Third*. That thirty-six sections of land, to be selected by the governor of said State, shall be granted to said State for the purpose of the erection of public buildings at the seat of government, and the erection cf buildings for the various public benevolent institutions created by the State constitution. *Fourth*. That the salt-springs, and gold, silver, copper, lead, or other valuable mines, not exceeding twelve in number, with six sections of land adjacent, shall be granted to the said State, to be selected, used, or alienated, as may hereafter be prescribed by law. *Fifth*. That 5 per centum of the net proceeds of the sales of public lands within said State, sold by Congress after the admission of said State into the Union, shall be paid to the said State for the purpose of creating a common-school fund, the principal to be held sacred, and the interest to be applied to the education of the children of Kansas. *Sixth*. That each alternate section of land now owned, or which may hereafter be acquired by the United States, lying for six miles in width on each side of the following lines of railroads, shall be granted by Congress to the State of Kansas: 1st. Commencing on the Missouri State line, at some point south of the fourth standard parallel line, and traversing Southern Kansas westwardly; 2d. Commencing at some point on the Missouri River or Missouri State line, and traversing Central Kansas westwardly; 3d. Commencing at some point on Missouri River, and traversing Northern Kansas westwardly; 4th. Commencing at some point on the Missouri River, and running southerly in the direction of the Gulf of Mexico: *Provided*, That should the alternate sections along the lines of said railroads be disposed of, an equal number of sections shall be selected from any other public lands contiguous to said railroads; said lands to be reserved and conveyed to the State, for the purpose of aiding in the construction of said railroads, under such rules and restrictions as may hereafter be prescribed by law. The Congress of the United States, in conjunction with the proper authorities of this State, may adopt the necessary measures for carrying the several provisions herein contained into effect.

PREAMBLE.

We, the people of the Territory of Kansas, grateful to Almighty God for our freedom, by our delegates in convention assembled, having the right of admission into the Union as one of the United States of America, consistent with the Federal Constitution, and by virtue of the treaty of cession by France to the United States of the province of Louisiana, believing that the time has arrived when our present political condition should cease and the right of self-government be asserted, in order to secure to ourselves and our posterity all the rights of life, liberty, and property, and the free pursuit of happiness, ordain the following constitution as the organic law of a free and independent State, by the name and style of the State of Kansas, bounded as follows, to wit: Beginning at a point on the western boundary of the State of Missouri where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence, following said boundary westward to the eastern boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All men are by nature equally free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety; and the right of all men to the control of their persons exists prior to law, and is inalienable.

SEC. 2. All political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit, and they alone have the right at all times to alter, reform, or abolish their form of government in such manner as they may think proper. No special privileges or immunities shall ever be granted by the general assembly which may not be altered, revoked, or repealed by the same authority.

SEC. 3. The people have the right to assemble in a peaceable manner to consult for their common good, to instruct their representatives, and to petition the general assembly for the redress of grievances.

SEC. 4. The people have the right to bear arms for their defence and security; but standing armies in time of peace are dangerous to liberty, and shall not be kept up, and the military shall be in strict subordination to the civil power.

SEC. 5. The right of trial by jury shall be inviolate, and extend to persons of every condition.

SEC. 6. There shall be no slavery in this State, and no involuntary servitude, unless for the punishment of crime, whereof the parties shall have been duly convicted.

SEC. 7. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship against his consent; and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of religious belief; but nothing herein contained shall be so construed as to dispense with oaths or affirmations. Religious morality and knowledge, however, being essential to good government, it shall be the duty of the legislature to make suitable provisions for the protection of all religious denominations in the peaceable enjoyment of their modes of worship, and for the encouragement of schools and the means of instruction.

SEC. 8. The privilege of the writ of *habeas corpus* shall not be suspended, unless, in case of invasion or rebellion, the public interest require it.

SEC. 9. All persons shall be bailable by sufficient sureties, except for capital offences, where the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.

SEC. 10. Except in cases of impeachment, and in cases arising in the Army or Navy, or in the militia when in actual service in time of war or public danger, and in cases of petit larceny and other inferior offences, no person shall be held to answer for a capital or otherwise infamous crime unless upon presentment or indictment of a grand jury. In any trial in any court, the accused shall be allowed to appear and defend in person or by counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed; nor shall any person be compelled in any criminal case to be a witness against himself, or twice put in jeopardy for the same offence.

SEC. 11. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of such right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions for libel the truth of the charge may be given in evidence to the jury, and if it shall ap-

pear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the accused shall be acquitted.

SEC. 12. No person shall be transported out of the State for any offence committed within the same, and no conviction in this State shall work a corruption of blood or forfeiture of estate.

SEC. 13. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war, except in a manner prescribed by law.

SEC. 14. The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures, shall be inviolate; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

SEC. 15. No person shall be imprisoned for debt in any civil action or mesne or final process, except in cases of fraud.

SEC. 16. All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have a remedy by due course of law, and justice administered without denial or delay.

SEC. 17. No hereditary emoluments, honors, or privileges shall ever be granted or conferred in this State.

SEC. 18. No power of suspending laws shall be exercised except by the general assembly.

SEC. 19. Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war, or other public exigencies imperatively requiring its immediate seizure, or for the purpose of making or repairing roads, which shall be open to the public without charge, a just compensation shall be made to the owners in money; and in all other cases where private property shall be taken for public uses, a compensation therefor shall first be made in money, or first secured by depositing money, and such compensation shall be estimated by a jury without deduction for benefits to any property of the owner.

SEC. 20. The payment of a tax shall not be a qualification for exercising the right of suffrage.

SEC. 21. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

SEC. 22. No indenture of any persons made and executed out of the bounds of the State shall be valid within the State.

ARTICLE II.

ELECTIVE FRANCHISE.

SECTION 1. In all elections not otherwise provided for by this constitution, every male citizen of the United States, of the age of twenty-one years or upwards, who shall have resided in the State six months next preceding such election, and ten days in the precinct in which he may offer to vote, and every male person of foreign birth of the age of twenty-one years or upwards, and who shall have resided in the United States one year, in this State six months, and in the precinct in which he may offer to vote ten days next preceding such election, and who shall have declared his intention to become a citizen of the United States ten days preceding such election, shall be deemed a qualified elector.

SEC. 2. No soldier, seaman, or marine, in the Army or Navy of the United States, or of their allies, shall be deemed to have acquired a residence in this State in consequence of being stationed within the same, nor shall any such soldier, seaman, or marine have the right to vote.

SEC. 3. No person shall be deemed to have lost his residence in this State by reason of his absence either on business of this State or the United States.

SEC. 4. Every person shall be disqualified from holding office during the term for which he may have been elected who shall have given or offered a bribe or reward to procure his election.

SEC. 5. Every person who shall give or accept a challenge to fight a duel, or who

shall knowingly carry to another person such challenge, or who shall agree to go out of this State to fight a duel, shall be ineligible to any office of trust or profit in this State.

SEC. 6. The general assembly shall have the power to deprive of the right of suffrage and to render ineligible to office any person convicted of an infamous crime.

SEC. 7. No person holding a lucrative office or appointment under the Constitution or laws of the United States, or of this State, shall be eligible to a seat in the general assembly; nor shall any person hold more than one lucrative office at the same time, except as in this constitution expressly permitted: *Provided*, That offices in the militia to which there is attached no annual salary, where the compensation does not exceed ninety dollars per annum, shall not be deemed lucrative.

SEC. 8. No person who may hereafter be collector or holder of public moneys shall be eligible to any office of trust or profit in the State until he shall have accounted for and paid into the proper treasury all sums for which he may be accountable.

SEC. 9. Any person who shall commit a fraud tending to affect the result of any election in this State shall, on conviction thereof, be forever ineligible as an elector.

ARTICLE III.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government shall be divided into three separate departments: the legislative, the executive, including the administrative, and the judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another, except as in this constitution expressly provided.

ARTICLE IV.

LEGISLATURE.

SECTION 1. The legislative power of the State shall be vested in the general assembly, which shall consist of a senate and house of representatives.

SEC. 2. The senators and representatives shall be chosen annually, by the qualified electors of the respective counties or districts for which they are chosen, on the Tuesday next after the first Monday in November. Their terms of office shall be one year, and shall commence on the first day of January next after their election.

SEC. 3. There shall be elected at the first election twenty-five senators and seventy-five representatives, and the number afterwards shall be regulated by law; and the general assembly shall, in all apportionments for members of the legislature, establish single representative and single senatorial districts.

SEC. 4. No person shall be eligible to the office of senator or representative who shall not at the time of his election possess the qualifications of an elector.

SEC. 5. Each house, except as otherwise provided in this constitution, shall choose its own officers, determine its own rules of proceeding, punish its members for disorderly conduct, and, with the concurrence of two-thirds of all the members elected to the house, expel a member, but not the second time for the same cause; and shall judge of the qualification, election, and return of its own members, and have all other powers necessary to secure its safety and the undisturbed transaction of its business.

SEC. 6. Each house shall keep a journal of its proceedings, which shall be published. The yeas and nays shall, at the request of two members, be taken and entered on the journal.

SEC. 7. Any member of either house shall have the right to protest against any act or resolution thereof; and such protest and reason therefor shall, without alteration, commitment, or delay, be entered on the journal.

SEC. 8. All vacancies which may occur in either house shall, for the unexpired term, be filled by election, as shall be prescribed by law.

SEC. 9. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for words spoken in debate they shall not be questioned in any other place.

SEC. 10. A majority of all the members elected to each house voting in the affirmative shall be necessary to pass a bill or joint resolution, and all bills and joint resolutions so passed shall be signed by the presiding officers of the respective houses and presented to the governor for his approval.

SEC. 11. The doors of each house and of committees of the whole shall be kept open. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting, except for personal safety.

SEC. 12. Every bill shall be read by sections in each house on three several days, except in case of emergency. Two-thirds of the house where such bill is pending may, if deemed expedient, suspend the rules on a call of the yeas and nays; but the reading of a bill by sections on its final passage shall in no case be dispensed with; and the vote on the final passage of every bill and joint resolution shall be taken by yeas and nays, and entered on the journal.

SEC. 13. Every act shall contain but one subject, which shall be clearly expressed in its title. Bills may originate in either house, but may be altered, amended, or rejected by the other.

SEC. 14. In all cases where a general law can be made applicable, special laws shall not be enacted.

SEC. 15. No act shall ever be revived or amended by mere reference to its title, but the act revived or the section amended or revived at full length.

SEC. 16. No general act shall take effect until the same shall have been published and circulated in the counties of the State by authority, except in case of emergency, which emergency shall be declared in the preamble or the body of the law.

SEC. 17. The election and appointment of all officers, and the filling of all vacancies not otherwise provided for by this constitution or the Constitution of the United States, shall be made in such manner as shall be prescribed by law; but no appointing power shall be exercised by the general assembly, except as provided in this constitution and in the election of the United States Senators, and in these cases the vote shall be taken *viva voce*.

SEC. 18. The general assembly shall not have power to enact special laws annulling the contract of marriage.

SEC. 19. The general assembly shall not have power to pass retroactive laws, or laws impairing the obligation of contracts, but may, by general laws, authorize the courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties and officers, by curing omissions, defects, and errors in instruments and proceedings arising out of a want of conformity with the laws of this State.

SEC. 20. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Kansas.*"

SEC. 21. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate, and, when sitting for this purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of all the senators present.

SEC. 22. The governor and all other civil officers under the laws of this State shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of honor, trust, or profit under the laws and constitution of this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

SEC. 23. Within one year after the ratification of this constitution, and within two years subsequently, for the term of ten years, an enumeration of all the inhabitants of this State shall be made in such manner as shall be directed by law.

SEC. 24. All regular sessions of the general assembly shall be held at the capital of the State, and shall commence on the first Monday of January annually.

SEC. 25. All bills for raising revenue shall originate in the house of representatives.

SEC. 26. The members of the general assembly shall receive for their services the sum of four dollars per day for each and every day they are actually in attendance at any regular or special session, and four dollars for every twenty miles they shall travel in going to and returning from the place of meeting by the usually-travelled route; and no regular sessions of the general assembly, except the first, under this constitution, shall extend beyond the term of sixty days, nor any special session more than forty days.

SEC. 27. Every bill or resolution shall, before its final passage, be printed for the use of the general assembly.

ARTICLE V.

EXECUTIVE.

SECTION 1. The executive department shall consist of a governor, a lieutenant-governor, secretary of state, treasurer of state, auditor of state, and attorney-general, who shall be chosen by the electors of the State at the same time and place of voting as for the members of the general assembly.

SEC. 2. The term of office of the governor, lieutenant-governor, treasurer, auditor, secretary of state, and attorney-general, shall commence on the first day of January next after their election, and shall continue for two years, and until their successors are elected and qualified. No person shall be eligible for the above offices more than two out of three consecutive terms.

SEC. 3. The returns of every election for the officers named in the preceding section shall be sealed up and transmitted to the seat of government by the returning officers, directed to the secretary of state, who shall lay the same before the general assembly at their first meeting thereafter, when they shall open and canvass them, and publish and declare the result thereof in the presence of a majority of the members of both houses. The persons having the highest number of votes shall be declared duly elected, and a certificate thereof given to such persons, signed by the presiding officers of both houses; but if any two or more shall have the highest and equal number of votes for the same office, one of them shall be chosen by a vote of the two houses of the general assembly in joint session.

SEC. 4. The executive power shall be vested in a governor.

SEC. 5. He may require information in writing from the officers in the executive department upon any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed.

SEC. 6. He shall communicate at every session, by message, to the general assembly, the condition of the affairs of the State, and recommend such measures as he shall deem expedient for their action.

SEC. 7. He may, on extraordinary occasions, convene the general assmbly by proclamation, and shall state in such proclamation the purpose for which they are convened; and the general assembly shall enter upon no legislative business except that for which they were especially called together.

SEC. 8. In case of disagreement between the two houses in respect to the time of adjournment, he shall have power to adjourn the general assembly to such time as he may think proper, but not beyond the regular meetings thereof.

SEC. 9. He shall be commander-in-chief of the military in the State, except when they shall be called into the service of the United States.

SEC. 10. The pardoning power shall be vested in the governor, under such regulations and restrictions as may be prescribed by law.

SEC. 11. There shall be a seal of the State, the device for which shall be agreed upon by the general assembly, and which shall be kept by the governor and used by him officially, and shall be called "The Seal of the State of Kansas."

SEC. 12. All grants and commissions shall be issued in the name and by the author-

ity of the State of Kansas, sealed with the seal thereof, signed by the governor, and countersigned by the secretary of state.

SEC. 13. No member of either house of Congress, or other persons holding office under the authority of this State or of the United States, shall execute the duties of governor, except as herein provided.

SEC. 14. In case of the death, impeachment, resignation, removal, or other disability of the governor, the lieutenant-governor shall exercise the duties of the office of governor until another governor shall be duly qualified or the disability be removed; but in such case another governor shall be chosen at the next annual election for members of the general assembly, unless such death, resignation, impeachment, removal, or other disability, shall occur within three calendar months immediately preceding such next annual election, in which case a governor shall be chosen at the second succeeding annual election for members of the general assembly; and in case of the death, impeachment, resignation, removal, or other disability of the lieutenant-governor, the president of the senate *pro tempore* shall exercise the office of governor, until a governor shall be duly qualified as aforesaid.

SEC. 15. The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided, and shall be entitled to the same pay as the speaker of the house of representatives, and in case of his death, resignation, impeachment, removal from office, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

SEC. 16. Should the office of secretary of state, auditor of state, treasurer of state, or attorney-general, become vacant, for any of the causes specified in the fourteenth and fifteenth sections, the governor shall fill the vacancy or vacancies until the disability is removed or a successor is elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after such vacancy shall have occurred, and the person chosen shall hold the office for the full term fixed in the second section of this article.

SEC. 17. The officers mentioned in this article shall, at stated times, receive for their services compensation to be fixed by law, which shall neither be increased or diminished during the period for which they shall have been elected.

SEC. 18. The officers of the executive department and of the public State institutions shall, at least ten days preceding each regular session of the general assembly, severally report to the governor, who shall transmit the same to the general assembly.

SEC. 19. Every bill which shall have passed both houses shall be presented to the governor. If he approves, he shall sign the same, but if he shall not approve, he shall return it, with his objections, to the house in which it shall have originated, which shall enter the objections at large upon the journal and proceed to reconsider the bill. If, after such reconsideration, a majority of that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall be reconsidered, and, if approved by a majority of that house, it shall be a law; but in such case the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner as if he had signed it, unless the general assembly, by adjournment, prevent its return, in which case it shall not be a law.

ARTICLE VI.

JUDICIAL.

SECTION 1. The judicial power of the State shall be vested in a supreme court, circuit courts, county courts, justices of the peace, and in such other courts inferior to the supreme court as may be established in the manner hereinafter provided.

SEC. 2. The supreme court shall consist of three judges, a majority of whom shall form a quorum. It shall hold at least one term in each year, at the seat of government, and such other terms, there or elsewhere, as may be required by law.

SEC. 3. The judges of the supreme court shall be elected by the electors of the State at large, at the first election under this constitution. The term of one of said judges shall be two years, of another four years, of another six years; and at all subsequent elections the term of each of said judges shall be six years.

SEC. 4. The judge having the shortest term to serve, not holding by appointment, shall be chief justice.

SEC. 5. The general assembly shall provide by law for the speedy publication of the decisions of the supreme court.

SEC. 6. There shall be elected by the voters of the State a clerk and a reporter for the supreme court, who shall hold their offices for three years.

SEC. 7. The circuit courts shall each consist of one judge. The State shall be divided into judicial circuits, and a judge for each circuit shall be elected by the voters thereof. He shall, while in office, reside in the circuit for which he is chosen, and his term of office shall be three years.

SEC. 8. Until otherwise provided by law, there shall be five judicial circuits, as follows: The first, comprising the counties of Leavenworth, Jefferson, Atchinson, and Brown; the second, the counties of Calhoun, Nemaha, Pottawatomie, Marshall, Riley, Washington, and Clay; the third, the counties of Shawnee, Douglas, Johnson, Lykins, Franklin, and Weller; the fourth, the counties of Linn, Bourbon, Coffey, Anderson, Allen, Woodson, Dorr, and McGee; the fifth, the counties of Richardson, Breckenridge, Madison, Greenwood, Godfrey, Hunter, Butler, Wise, Davis, and Dixson.

SEC. 9. The general assembly may provide by law that the judge of one circuit may hold the courts of another circuit in case of necessity or convenience.

SEC. 10. The county courts shall each consist of one judge, who shall be elected by the voters of each county, who shall reside in the county, and his term of office shall be two years.

SEC. 11. A sufficient number of justices of the peace shall be elected by the voters of each township of the several counties. Their term of office shall be two years.

SEC. 12. All judges, other than those hereinbefore provided for, shall be elected by the electors of the judicial district over which their jurisdiction may extend, but not for a term of office longer than six years.

SEC. 13. The jurisdiction of the supreme court, the circuit courts, the county courts, the justices of the peace, and such other courts as may be created, shall be fixed by law; and the judges of the courts shall, respectively, have and exercise such power and jurisdiction at chambers as may be provided by law.

SEC. 14. Judges may be removed from office by concurrent resolution of both houses of the general assembly, if two-thirds of the members elected to each house concur therein; but no such removal shall be made, except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have notice thereof and an opportunity to be heard.

SEC. 15. In case the office of any judge shall become vacant before the expiration of the term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor shall be elected for the residue of the unexpired term, at the first annual election that occurs more than thirty days after such vacancy shall have happened.

SEC. 16. The compensation of the judges of the supreme court and the circuit courts shall not be increased or diminished during their term of office, and they shall receive no fees or perquisites, nor hold any office of profit and trust under the State other than a judicial office.

SEC. 17. The general assembly may at any time increase the number of the judges of the supreme court, may increase or diminish the number of the judicial circuits, or change the circuits, or may establish other courts by a law passed by two-thirds of the members elected to each house; but no such change, addition, or diminution shall vacate the office of any judge.

SEC. 18. There shall be elected in each county, by the electors thereof, one clerk of the courts, who shall hold his office for the term of two years, and until his successor

shall be elected and qualified. He shall be clerk of the county court and the circuit court in the county in which he is chosen.

SEC. 19. There shall be elected in each county, by the voters thereof, one county attorney, who shall hold his office for the term of two years, and until his successor shall be elected and qualified.

SEC. 20. The duties, compensation, fees, and perquisites of the officers provided for in this article shall be fixed by law.

SEC. 21. The style of all process shall be "The State of Kansas." All prosecutions shall be carried on in the name and by the authority of the State of Kansas, and all indictments shall conclude "against the peace and dignity of the State of Kansas."

ARTICLE VII.

EDUCATION.

SECTION 1. The stability and perpetuity of free republican institutions depend upon the intelligence and virtue of the people; therefore, it is declared to be the duty of the State to establish by law, at the earliest possible period, a uniform system of free schools, in which every child in the State shall be entitled to receive a good common-school education at the public expense.

SEC. 2. The principal of all school-funds, from whatever source, shall be the common property of the State, and may be increased, but shall forever be preserved inviolate and undiminished.

SEC. 3. The income of the school-fund shall be devoted exclusively to the support of schools, and, together with any funds raised in any other manner for school purposes, shall be distributed through the county or township treasurer to the several school districts, in some equitable proportion, to the number of children and youth resident therein between the ages of five and twenty-one years.

SEC. 4. The school-lands shall never be sold until such sale is authorized by a free and fair vote of the people of Kansas, but, subject to valuation every three years, may be leased at a per centum established by law.

SEC. 5. No religious sect or sects shall ever have any right to, or control of, any part of the school-funds of this State.

SEC. 6. The general assembly shall make such provision, by taxation or otherwise, as, with the income arising from the school-fund, will secure throughout the State the maintenance of a thorough and uniform system of common schools, which shall be kept up and supported in each district at least four months in each year, and shall be open and free to every child in the State between the ages of five and twenty-one years.

SEC. 7. As the means of the State will admit, educational institutions of a higher grade shall be established by law, so as to form a complete system of public instruction, embracing the primary, normal, preparatory, collegiate, and university departments.

SEC. 8. At the first election of State officers, and biennially thereafter, the people shall elect a superintendent of public instruction, whose duties and compensation shall be prescribed by law.

SEC. 9. At the first election of State officers, and biennially thereafter, there shall be elected by the people a commissioner of school-funds, who shall have the charge of the school-lands and the principal of the school-fund, whose duties and compensation shall be prescribed by law.

ARTICLE VIII.

PUBLIC INSTITUTIONS.

SECTION 1. It shall be the duty of the general assembly, at as early a date as possible, to provide State asylums for the benefit, treatment, and instruction of the blind, deaf and dumb, and insane.

SEC. 2. The general assembly shall make provision for the establishment of an asylum for idiots, to be regulated by law.

SEC. 3. The general assembly shall make provision for the establishment of houses of refuge, for the correction, reform, and instruction of juvenile offenders.

SEC. 4. It shall be the duty of the general assembly to make provision, as soon as possible, for a State hospital and a State penitentiary: *Provided*, That not more than one of the aforesaid institutions shall be located in any county of this State, the location to be determined by a vote of the electors at large at any general election, and that the directors and superintendents of the same shall be elected by the people.

SEC. 5. The respective counties of the State shall provide in some suitable manner for those inhabitants who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society, under provision to be made by the laws of the general assembly.

ARTICLE IX.

MILITIA.

SECTION 1. The governor shall be the commander-in-chief of the military forces of the State, excepting when these forces shall be actually in the service of the United States, and shall have power to call out any part or the whole of said military forces to aid in the execution of the laws, to suppress insurrection, and to repel invasion.

SEC. 2. All male citizens of this State between the ages of eighteen and forty-five years, excepting those who are conscientiously opposed to bearing arms and such others as may be by law exempted, shall be enrolled in the militia, and held to perform such military duty as by law may be required.

SEC. 3. The general assembly shall provide by law for organizing and disciplining the militia in such manner as it shall deem expedient.

ARTICLE X.

PUBLIC DEBT.

SECTION 1. No money shall be paid out of the treasury, except in pursuance of an appropriation by law.

SEC. 2. The credit of the State shall never be given or loaned in aid of any individual, association, or corporation.

SEC. 3. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts shall never, in the aggregate, exceed one hundred thousand dollars, unless authorized by a direct vote of the people at a general election. Every such debt shall be authorized by law, and every such law shall provide for the payment of the annual interest of such debt, and the principal within ten years from the passage of such law; and such appropriation shall not be repealed until the principal and interest shall have been wholly paid.

SEC. 4. The legislature may also borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized or repayment of the debt thereby created.

SEC. 5. No scrip, certificate, or other evidence of State debt whatever shall be issued, except for such debts as are authorized by the third and fourth sections of this article.

ARTICLE XI.

FINANCE AND TAXATION.

SECTION 1. The levying of taxes by the poll is grievous and oppressive; therefore the general assembly shall never levy a poll-tax for county or State purposes.

SEC. 2. Laws shall be passed taxing, by a uniform rule, all real and personal prop-

erty, according to its true value in money; but burying-grounds, school-houses, and other property used exclusively for educational purposes, houses used exclusively for public worship, not exceeding fifty thousand dollars in value, institutions of public charity, public and municipal property used exclusively for public and municipal purposes, and personal property to an amount not exceeding in value two hundred dollars for each head of a family, may, by general laws, be exempted from taxation; but all such laws shall be subject to alteration or repeal, and the value of all such property so exempted shall, from time to time, be ascertained and published as may be directed by law.

SEC. 3. The general assembly shall provide for raising revenue sufficient to defray the expenses of the State for each year; and also a sufficient sum to pay the interest and such part of the principal of a State debt, if any such debt shall accrue, as may be directed by law.

SEC. 4. No tax shall be levied except in pursuance of law; and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

SEC. 5. The State shall never contract any debt for purposes of internal improvements.

SEC. 6. In the passage in either house of the general assembly of any law which imposes, continues, or renews a tax, or makes, continues, or renews an appropriation of public or trust moneys, or to release, discharge, or commute a claim or demand of the State, the vote shall be taken by yeas and nays, which shall be duly entered on the journal; and three-fifths of all the members elected to such house shall, in all such cases, be requisite to constitute a quorum.

ARTICLE XII.

COUNTIES AND COUNTY AND TOWNSHIP OFFICERS.

SECTION 1. The general assembly shall provide by law for submitting to the people of each county, at an annual election, the question of the location of county-seats; and the general assembly may change the lines of counties, but shall, by law, submit such proposed alterations to the electors of the county or counties affected thereby at a general election; said alterations to be made to township-lines as far as practicable.

SEC. 2. The general assembly shall provide by law for the creation and election of county, city, town, and township officers.

SEC. 3. All officers whose election or appointment is not provided for by this constitution shall be elected by the people, or appointed as the general assembly may by law direct.

SEC. 4. Provision shall be made by law for the removal, for misconduct or malversation in office, of all officers whose powers and duties are not local or legislative, and who shall be elected at general elections, and also for supplying vacancies created by such removal.

SEC. 5. The legislature may declare the cases in which any office shall be deemed vacant, where no provision is made for that purpose in this constitution.

ARTICLE XIII.

ELECTIONS.

SECTION 1. All elections shall be free and equal.

SEC. 2. Electors shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance on elections, and in going to and returning from them.

SEC. 3. All elections by the people shall be by ballot, and all elections by the general assembly, or by either branch thereof, shall be *viva voce*.

SEC. 4. All general elections shall be held on the Tuesday next succeeding the first Monday in November of each year.



Sec. 5. Returns of elections for members of Congress, the general assembly, and all other officers not otherwise provided for, shall be made to the secretary of state, in such manner as may be prescribed by law.

ARTICLE XIV.

CORPORATIONS.

Section 1. Corporations may be created under general laws, but shall not be created by special acts, except for municipal purposes. All general laws and special acts authorizing or creating corporations may be altered from time to time or repealed.

Sec. 2. Dues from corporations shall be secured by such individual liability of the stockholders and other means as shall be prescribed by law, and each stockholder of a corporation or joint-stock association, except corporations for charitable purposes and railroad corporations, shall be individually liable over and above the stock by him or her owned, and any amount unpaid thereon, to a further sum at least equal in amount to such stock.

Sec. 3. The property of corporations, except for charitable and religious purposes, now existing and to be hereafter created, shall be subject to taxation the same as the property of individuals.

Sec. 4. All real estate or other property of religious corporations shall vest in trustees, whose election shall be by the members of such corporation.

Sec. 5. The general assembly shall provide for the organization of cities and villages by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent the abuse of such power.

Sec. 6. The term corporations, as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships; and all corporations shall have the right to sue, and shall be subject to be sued, in all courts the same as natural persons.

ARTICLE XV.

JURISPRUDENCE.

Section 1. The general assembly, at its first session under this constitution, shall constitute a commission, to consist of three persons not members of the senate or house of representatives, whose duty it shall be to revise, reform, simplify, and abridge the rules of practice, pleading, and proceeding in the courts of record of this State, abolishing the forms of action known to the common law, and distinctions as to form between proceedings at law and in equity.

Sec. 2. The proceedings of the commissioners shall be reported to and be subject to the action of the general assembly.

Sec. 3. All the proceedings of the courts of this State shall be instituted and conducted in the English language, avoiding, as far as practicable, the use of technical terms.

ARTICLE XVI.

MISCELLANEOUS.

Section 1. No person shall be taken, imprisoned, or disseized of his freehold, outlawed, exiled, or in any manner deprived of his life, liberty, or property, but by the judgment of his peers and the law of the land.

Sec. 2. The printing of the laws and journals, bills, legislative documents, and papers for each branch of the general assembly, and all printing for the executive and other departments of State, shall be let to the lowest responsible bidder by such officers, and in such manner as shall be prescribed by law.

SEC. 3. The general assembly shall provide by law for the protection of the rights of women, married and single, in the acquiring and possessing of property, real, personal, and mixed, separate and apart from the husband or other person; and shall also provide for the equal rights of women in the protection, with the husband, of their children during their minority; also shall provide for the securing of a homestead, which, without the consent of the wife, she cannot be divested of.

SEC. 4. No person shall be elected or appointed to any office in this State unless he possesses the qualifications of an elector at the time of his election or appointment.

SEC. 5. There shall be established, in the secretary of state's office, a bureau of statistics and agriculture, under such regulations as may be prescribed by law, and provision shall be made by the general assembly for the organization and encouragement of State and county agricultural associations.

SEC. 6. Lotteries, gift-enterprises, and the sale of lottery and gift-enterprise tickets, for any purpose whatever, shall be forever prohibited in the State.

SEC. 7. A homestead of one hundred and sixty acres of land, or in lieu thereof a house and lot, or other property not exceeding in value two thousand dollars, belonging to any one family, shall by law be exempted from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife in cases where that relation exists; but no property shall be exempt from sale for taxes or for the payment of obligations contracted for its purchase.

SEC. 8. This State shall have jurisdiction concurrent with the State of Missouri on the Missouri River, so far as the said river may be the common boundary of the two States.

SEC. 9. For the purpose of preserving the public health, shall have power to pass general sanitary laws.

SEC. 10. No lease or grant of agricultural land for a longer period than twelve years, hereafter to be made, in which shall be reserved any rent or service of any kind, shall be valid; and all fines, quarter sales, or other like restraints upon transfer, reserved in any lease of land, hereafter to be made, shall be void: *Provided*, That this article shall in nowise interfere with the disposition of the school-lands of the State.

SEC. 11. In all cases where it shall be necessary to sell any of the lands granted by Congress, said sales shall not be made without one year's notice, through publication in the county or counties where the lands lie, and an advertisement in two or more central newspapers of the State, and there shall be a valuation of said lands by disinterested persons, and no lands shall be sold at a less price than the valuation.

ARTICLE XVII.

BANKS AND CURRENCY.

SECTION 1. No bank shall be established otherwise than under a general banking-law.

SEC. 2. If the general assembly shall enact a general banking-law, such law shall provide for the registry and countersigning, by the auditor of the State, of all bank-notes or paper-credits designed to be circulated as money.

SEC. 3. It shall be further provided that such bank-notes or paper-credits shall be amply secured by the deposit, with the proper officer of state, of bonds of interest-paying States or the United States.

SEC. 4. All bills or notes issued as money shall be at all times redeemable in gold or silver.

SEC. 5. Holders of bank-notes shall be entitled, in case of insolvency, to preference of specie payment over all other creditors.

SEC. 6. The State shall not be a stockholder in any bank or banking institution.

SEC. 7. All banks shall be required to keep officers and proper offices, for the issue and redemption of their paper, at some convenient point within the State.

SEC. 8. Any general banking-law passed by the general assembly of this State may at any time be altered, amended, or repealed.

SEC. 9. No general banking-law shall have any force or effect until the same shall have been submitted to a vote of the electors of the State, at some general election, and have been approved by a majority of all the votes given on that subject at such election.

ARTICLE XVIII.

AMENDMENTS.

SECTION 1. Propositions for the amendment of this constitution may be made by either branch of the general assembly; and if three-fifths of all the members elected to each house shall concur therein, such proposed amendments shall be entered on the journals, with the yeas and nays; and the secretary of state shall cause the same to be published in at least one newspaper in each county of the State where a newspaper is published for three months preceding the next election for senators and representatives, at which time the same shall be submitted to the electors for their approval or rejection; and if a majority of the electors voting on said amendments at said election shall adopt such amendments, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately.

SEC. 2. Whenever three-fifths of the members elected to each branch of the general assembly shall think it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election of members of the general assembly for or against a convention; and if a majority of the electors voting on said amendments at said election shall adopt such amendments, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately.

SEC. 3. Whenever three-fifths of the members elected to each branch of the general assembly shall think it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election of members of the general assembly for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the general assembly shall, at its next regular session, provide by law for calling the same. The convention shall consist of as many members as the house of representatives, and shall be chosen in the same manner, and shall meet within three months after their election at the capital of the State, for the purpose aforesaid.

SEC. 4. At the general election to be held in the year one thousand eight hundred and sixty-three, and in each tenth year thereafter, the question, "Shall there be a convention to revise, alter, or amend the constitution?" shall be submitted to the electors of the State; and in case a majority of the electors voting at said election shall decide in favor of a convention, the general assembly, at its next regular session, shall provide by law for the election of delegates and the assembling of such convention, as provided in the preceding section; but no amendment or revision of this constitution, agreed upon by any convention in pursuance of this article, shall take effect until the same shall have been submitted to the electors of the State, and adopted by a majority of those voting thereon.

SCHEDULE.

SECTION 1. In order that no inconvenience may arise from the change from a territorial to a State government, it is declared that no existing rights, suits, prosecutions, (except for political offences,) claims, or contracts, shall be affected by a change in the form of government, except as otherwise declared in this constitution. But no debt of the Territory shall be assumed by the State, except by a law passed by a vote of two-thirds of each branch of the general assembly.

SEC. 2. This constitution shall be submitted to a vote of the people, for approval or rejection, on the third Tuesday of May, one thousand eight hundred and fifty-eight. The vote shall be by ballot, and those in favor of the constitution shall write or print on their ballots the words "For the constitution," and those opposed to the constitution shall write or print upon their ballots the words "Against the constitution." Said election shall be conducted according to the provisions of section thirteen of an act of the legislature of the Territory of Kansas, passed February —, one thousand eight hundred and fifty-eight, entitled "An act to provide for the election of delegates to a convention to frame a State constitution."

SEC. 3. At the same time and place, and under the provisions of the section aforesaid, an election shall be held for members of the general assembly, for State officers, for judges, and for members of Congress to represent the State of Kansas in the Thirty-fifth Congress of the United States.

SEC. 4. If this constitution, upon being submitted to the people, shall be approved by a majority of the legal votes cast thereon, a copy of the same, certified by the president and secretary of the convention, together with the memorial framed by the convention, asking admission into the Union, and a certified statement of the vote on the ratification thereof, shall be transmitted as soon as practicable by the governor, president of the council, and speaker of the house of representatives of the Territory of Kansas, or any two of them, to the President and Congress of the United States.

SEC. 5. Provided this constitution shall be ratified by the people, then, upon the admission of Kansas into the Union as a State, this constitution shall be in full force, the State officers shall immediately enter upon the performance of their duties, and the governor shall immediately, by proclamation, convene the general assembly.

SEC. 6. The members of the first general assembly shall hold their offices until and including December 31, one thousand eight hundred and fifty-nine.

SEC. 7. The State officers and supreme and district judges first elected under the constitution shall hold their respective offices for the same length of time as though their term of office commenced on January 1, one thousand eight hundred and fifty-nine.

SEC. 8. The governor is authorized to adopt a seal, to be the seal of the State of Kansas, until otherwise provided for by law.

SEC. 9. Until otherwise provided for by law, the State shall be divided into senatorial districts, and senators appointed to them as follows: The first district shall consist of Leavenworth County, and shall be entitled to three senators; the second district shall consist of Atchison County, and shall be entitled to one senator; the third district shall consist of Doniphan County, and shall be entitled to two senators; the fourth district shall consist of Jefferson County, and be entitled to one senator; the fifth district shall consist of the counties of Brown and Calhoun, and shall be entitled to one senator; the sixth district shall consist of the counties of Nemaha, Marshall, and Washington, and shall be entitled to one senator; the seventh district shall consist of the counties of Pottawatomie and Richardson, and shall be entitled to one senator; the eighth district shall consist of the counties of Riley, Clay, Dickson, Arapahoe, and all the western part of Kansas not otherwise attached, and shall be entitled to one senator; the ninth district shall consist of the counties of Breckenridge, Wise, and Davis, and shall be entitled to one senator; the tenth district shall consist of the counties of Shawnee and Weller, and shall be entitled to two senators; the eleventh district shall consist of the counties of Butler, Hunter, Woodson, Greenwood, Madison, Godfrey, and Wilson, and shall be entitled to one senator; the twelfth district shall consist of the county of Coffey, and shall be entitled to one senator; the thirteenth district shall consist of the county of Douglas, and shall be entitled to two senators; the fourteenth district shall consist of the county of Johnson, and be entitled to one senator; the fifteenth district shall consist of the county of Lykins, and be entitled to one senator; the sixteenth district shall consist of the county of Franklin, and be entitled to one senator; the seventeenth district shall consist of the county of Anderson, and be entitled to one senator; the eighteenth district shall consist of the county of Linn, and shall be entitled to one senator; the nineteenth

district shall consist of the county of Bourbon, and shall be entitled to one senator; the twentieth district shall consist of the counties of Allen, Dorn, and McGee, and shall be entitled to one senator.

SEC. 10. The State shall be divided into representative districts, and members apportioned thereto as follows: First district, Leavenworth County, ten members; second, Atchison, three; third, Doniphan, five; fourth, Jefferson, three; fifth, Brown, two; sixth, Nemaha, two; seventh, Pottawatomie, two; eighth, Calhoun, one; ninth, Marshall and Washington, one; tenth, Riley, three; eleventh, Clay and Dickinson, one; twelfth, Davis, one; thirteenth, Wise, one; fourteenth, Butler and Hunter, one; fifteenth, Richardson, one; sixteenth, Breckenridge, two; seventeenth, Madison, one; eighteenth, Greenwood, one; nineteenth, Woodson, one; twentieth, Coffey, two; twenty-first, Weller, one; twenty-second, Shawnee, four; twenty-third, Douglas, seven; twenty-fourth, Johnson, three; twenty-fifth, Lykins, three; twenty-sixth, Linn, three; twenty-seventh, Franklin, two; twenty-eighth, Anderson, two; twenty-ninth, Allen, one; thirtieth, Bourbon, three; thirty-first, McGee, Dorn, Wilson, and Godfrey, one; district number thirty-two, to consist of all the western part of Kansas not otherwise attached, including the county of Arapahoe, one member.

SEC. 11. The general assembly, at its first session, shall provide for receiving proposals for the location of the seat of government, and shall publish such proposals, and also a plan for the purchase of a site by the State, and submit them to a full and fair vote of the people at the first general election after such session; and if no proposal or plan submitted shall receive a majority of all the votes cast, then they shall be submitted at each subsequent and general election until such choice shall be made; and when a proposal or plan shall be adopted, the legislature shall provide for the location at the place or in the manner designated, and for the application of the profits which may accrue to the State therefrom, to the support of the benevolent institutions of the State; and when the seat of government shall have been thus located, it shall not be changed but by a law ratified by a direct vote of the people; and until the selection provided for in this section shall be made, Topeka shall be the seat of government.

SEC. 12. The first general assembly shall provide by law for the submission of the question of universal suffrage to a vote of the people at the first general election of the members of the general assembly: *Provided*, That the qualifications of voters at the election shall be the same as at the vote on the submission of the constitution.

I hereby certify that the above is a correct copy of the constitution adopted by the convention at Leavenworth, April 3, 1858, from the original draft now in my possession.

M. F. CONWAY, *President.*

Attest:
SAM'L F. TAPPAN, JR., *Secretary.*

CONSTITUTION OF KANSAS—1859.*

ORDINANCE.

Whereas the Government of the United States is the proprietor of a large portion of the lands included in the limits of the State of Kansas as defined by this constitution; and whereas the State of Kansas will possess the right to tax said lands for purposes of government, and for other purposes: Now, therefore, be it ordained by the people of Kansas that the right of the State of Kansas to tax such lands is relinquished forever, and the State of Kansas will not interfere with the title of the United

* This constitution was adopted at a convention which met at Wyandotte July 5, 1859, and completed its labors July 29, 1859. It was submitted to the people of Kansas October 4, 1859, and ratified, receiving 10,421 votes against 5,530 votes.

States to such lands, nor with any regulation of Congress in relation thereto, nor tax non-residents higher than residents: *Provided always*, That the following conditions be agreed to by Congress:

SECTION 1. Sections numbered sixteen and thirty-six in each township in the State, including Indian reservations and trust-lands, shall be granted to the State for the exclusive use of common schools; and when either of said sections, or any part thereof, has been disposed of, other lands of equal value, as nearly contiguous thereto as possible, shall be substituted therefor.

SEC. 2. That seventy-two sections of land shall be granted to the State for the erection and maintenance of a State university.

SEC. 3. That thirty-six sections shall be granted to the State for the erection of public buildings.

SEC. 4. That seventy-two sections shall be granted to the State for the erection and maintenance of charitable and benevolent institutions.

SEC. 5. That all salt-springs, not exceeding twelve in number, with six sections of land adjacent to each, together with all mines, with the lands necessary for their full use, shall be granted to the State for works of public improvement.

SEC. 6. That 5 per centum of the proceeds of the public lands in Kansas, disposed of after the admission of the State into the Union, shall be paid to the State for a fund, the income of which shall be used for the support of common schools.

SEC. 7. That the five hundred thousand acres of land to which the State is entitled under the act of Congress entitled "An act to appropriate the proceeds of the sales of public lands and grant preemption-rights," approved September 4, 1841, shall be granted to the State for the support of common schools.

SEC. 8. That the lands hereinbefore mentioned shall be selected in such manner as may be prescribed by law; such selections to be subject to the approval of the Commissioner of the General Land-Office of the United States.

PREAMBLE.

We, the people of Kansas, grateful to Almighty God for our civil and religious privileges, in order to insure the full enjoyment of our rights as American citizens, do ordain and establish this constitution of the State of Kansas, with the following boundaries, to wit: Beginning at a point on the western boundary of the State of Missouri where the thirty-seventh parallel of north latitude crosses the same; thence running west on said parallel to the twenty-fifth meridian of longitude west from Washington; thence north on said meridian to the fortieth parallel of north latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south, with the western boundary of said State, to the place of beginning.

BILL OF RIGHTS.

SECTION 1. All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness.

SEC. 2. All political power is inherent in the people, and all free-governments are founded on their authority, and are instituted for their equal protection and benefit. No special privileges or immunities shall ever be granted by the legislature, which may not be altered, revoked, or repealed by the same body; and this power shall be exercised by no other tribunal or agency.

SEC. 3. The people have the right to assemble, in a peaceable manner, to consult for their common good, to instruct their representatives, and to petition the government, or any department thereof, for the redress of grievances.

SEC. 4. The people have the right to bear arms for their defence and security; but standing armies in time of peace are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power.

SEC. 5. The right of trial by jury shall be inviolate.

SEC. 6. There shall be no slavery in this State; and no involuntary servitude, except for the punishment of crime, whereof the party shall have been duly convicted.



SEC. 7. The right to worship God according to the dictates of conscience shall never be infringed; nor shall any person be compelled to attend or support any form of worship; nor shall any control of, or interference with, the rights of conscience be permitted; nor any preference be given by law to any religious establishment or mode of worship. No religious test or property qualification shall be required for any office of public trust, nor for any vote at any election; nor shall any person be incompetent to testify on account of religious belief.

SEC. 8. The right to the writ of *habeas corpus* shall not be suspended unless the public safety requires it in case of invasion or rebellion.

SEC. 9. All persons shall be bailable by sufficient sureties, except for capital offences where proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.

SEC. 10. In all prosecutions, the accused shall be allowed to appear and defend in person or by counsel; to demand the nature and cause of the accusation against him; to meet the witness face to face, and to have compulsory process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed. No person shall be a witness against himself, or be twice put in jeopardy for the same offence.

SEC. 11. The liberty of the press shall be inviolate; and all persons may freely speak, write, or publish their sentiments on all subjects, being responsible for the abuse of such right; and in all civil or criminal actions for libel, the truth may be given in evidence to the jury, and if it shall appear that the alleged libellous matter was published for justifiable ends, the accused party shall be acquitted.

SEC. 12. No person shall be transported from the State for any offence committed within the same, and no conviction in the State shall work a corruption of blood or forfeiture of estate.

SEC. 13. Treason shall consist only in levying war against the State, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the overt act, or confession in open court.

SEC. 14. No soldier shall, in time of peace, be quartered in any house without the consent of the occupant, nor in time of war, except as prescribed by law.

SEC. 15. The right of the people to be secure in their persons and property against unreasonable searches and seizures shall be inviolate; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons or property to be seized.

SEC. 16. No person shall be imprisoned for debt, except in cases of fraud.

SEC. 17. No distinction shall ever be made between citizens and aliens in reference to the purchase, enjoyment, or descent of property.

SEC. 18. All persons, for injuries suffered in person, reputation, or property, shall have remedy by due course of law, and justice administered without delay.

SEC. 19. No hereditary emoluments, honors, or privileges shall ever be granted or conferred by the State.

SEC. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

ARTICLE I.

EXECUTIVE.

SECTION 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor, treasurer, attorney-general, and superintendent of public instruction, who shall be chosen by the electors of the State at the time and place of voting for members of the legislature, and shall hold their offices for the term of two years from the second Monday of January, next after their election, and until their successors are elected and qualified.

SEC. 2. Until otherwise provided by law, an abstract of the returns of every election, for the officers named in the foregoing section, shall be sealed up and trans-

mitted by the clerks of the boards of canvassers of the several counties to the secretary of state, who, with the lieutenant-governor and attorney-general, shall constitute a board of State canvassers, whose duty it shall be to meet at the State capital on the second Tuesday of December succeeding each election for State officers, and canvass the vote for such officers, and proclaim the result; but in case any two or more have an equal and the highest number of votes, the legislature shall by joint ballot choose one of said persons so having an equal and the highest number of votes for said office.

SEC. 3. The supreme executive power of the State shall be vested in a governor, who shall see that the laws are faithfully executed.

SEC. 4. He may require information in writing from the officers of the executive department upon any subject relating to their respective duties.

SEC. 5. He may, on extraordinary occasions, convene the legislature by proclamation, and shall, at the commencement of every session, communicate in writing such information as he may possess in reference to the condition of the State, and recommend such measures as he may deem expedient.

SEC. 6. In case of disagreement between the two houses in respect to the time of adjournment, he may adjourn the legislature to such time as he may think proper, not beyond its regular meeting.

SEC. 7. The pardoning power shall be vested in the governor, under regulations and restrictions prescribed by law.

SEC. 8. There shall be a seal of the State, which shall be kept by the governor and used by him officially, and which shall be The Great Seal of Kansas.

SEC. 9. All commissions shall be issued in the name of the State of Kansas, signed by the governor, countersigned by the secretary of state, and sealed with the great seal.

SEC. 10. No member of Congress, or officer of the State, or of the United States, shall hold the office of governor, except as herein provided.

SEC. 11. In case of the death, impeachment, resignation, removal, or other disability of the governor, the power and duties of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the president of the senate.

SEC. 12. The lieutenant-governor shall be president of the senate, and shall vote only when the senate is equally divided. The senate shall choose a president *pro tempore*, to preside in case of his absence or impeachment, or when he shall hold the office of governor.

SEC. 13. If the lieutenant-governor, while holding the office of governor, shall be impeached or displaced, or shall resign or die, or otherwise become incapable of performing the duties of the office, the president of the senate shall act as governor until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 14. Should either the secretary of state, auditor, treasurer, attorney-general, or superintendent of public instruction, became incapable of performing the duties of his office for any of the causes specified in the thirteenth section of this article, the governor shall fill the vacancy until the disability is removed, or a successor is elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after it shall have happened; and the person chosen shall hold the office for the unexpired term.

SEC. 15. The officers mentioned in this article shall, at stated times, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

SEC. 16. The officers of the executive department, and of all public State institutions, shall, at least ten days preceding each regular session of the legislature, severally report to the governor, who shall transmit such reports to the legislature.

ARTICLE II.

LEGISLATIVE.

SECTION 1. The legislative power of this State shall be vested in a house of representatives and senate.

SEC. 2. The first house of representatives under this constitution shall consist of seventy-five members, who shall be chosen for one year. The first senate shall consist of twenty-five members, who shall be chosen for two years. After the first election, the number of senators and members of the house of representatives shall be regulated by law, but shall never exceed one hundred representatives and thirty-three senators.

SEC. 3. The members of the legislature shall receive as compensation for their services the sum of three dollars for each day's actual service at any regular or special session, and fifteen cents for each mile travelled by the usual route in going to and returning from the place of meeting; but such compensation shall not in the aggregate exceed the sum of two hundred and forty dollars for each member as *per diem* allowance for the first session held under this constitution, nor more than one hundred and fifty dollars for each session thereafter, nor more than ninety dollars for any special session.

SEC. 4. No person shall be a member of the legislature who is not at the time of his election a qualified voter of, and a resident in, the county or district for which he is elected.

SEC. 5. No member of Congress or officer of the United States shall be eligible to a seat in the legislature. If any person, after his election to the legislature, be elected to Congress, or elected or appointed to any office under the United States, his acceptance thereof shall vacate his seat.

SEC. 6. No person convicted of embezzlement or misuse of the public funds shall have a seat in the legislature.

SEC. 7. All State officers, before entering upon their respective duties, shall take and subscribe an oath or affirmation to support the Constitution of the United States and the constitution of this State, and faithfully to discharge the duties of their respective offices.

SEC. 8. A majority of each house shall constitute a quorum. Each house shall establish its own rules, and shall be judge of the elections, returns, and qualifications of its own members.

SEC. 9. All vacancies occurring in either house shall be filled for the unexpired term by election.

SEC. 10. Each house shall keep and publish a journal of its proceedings. The yeas and nays shall be taken and entered immediately on the journal upon the final passage of every bill or joint resolution. Neither house, without the consent of the other, shall adjourn for more than two days, Sundays excepted.

SEC. 11. Any member of either house shall have the right to protest against any act or resolution; and such protest shall, without delay or alteration, be entered on the journal.

SEC. 12. All bills shall originate in the house of representatives, and be subject to amendment or rejection by the senate.

SEC. 13. A majority of all the members elected to each house, voting in the affirmative, shall be necessary to pass any bill or joint resolution.

SEC. 14. Every bill and joint resolution passed by the house of representatives and senate shall, within two days thereafter, be signed by the presiding officers, and presented to the governor; if he approve, he shall sign it; but if not, he shall return it to the house of representatives, which shall enter the objections at large upon its journal, and proceed to reconsider the same. If, after such reconsideration, two-thirds of the members elected shall agree to pass the bill or resolution, it shall be sent, with the objections, to the senate, by which it shall likewise be reconsidered; and, if approved by two-thirds of all the members elected, it shall become a law. But in all such

cases the vote shall be taken by yeas and nays, and entered upon the journals of each house. If any bill shall not be returned within three days (Sundays excepted) after it shall have been presented to the governor, it shall become a law in like manner as if he had signed it, unless the legislature by its adjournment prevent its return, in which case it shall not become a law.

SEC. 15. Every bill shall be read on three separate days in each house, unless in case of emergency. Two-thirds of the house where such bill is pending may, if deemed expedient, suspend the rules; but the reading of the bill by sections, on its final passage, shall in no case be dispensed with.

SEC. 16. No bill shall contain more than one subject, which shall be clearly expressed in its title; and no law shall be revived or amended unless the new act contain the entire act revived or the section or sections amended, and the section or sections so amended shall be repealed.

SEC. 17. All laws of a general nature shall have a uniform operation throughout the State; and in all cases where a general law can be made applicable, no special law shall be enacted.

SEC. 18. All power to grant divorces is vested in the district courts, subject to regulation by law.

SEC. 19. The legislature shall prescribe the time when its acts shall be in force, and shall provide for the speedy publication of the same; and no law of a general nature shall be in force until the same be published. It shall have the power to provide for the election or appointment of all officers, and the filling of all vacancies not otherwise provided for in this constitution.

SEC. 20. The enacting clause of all laws shall be, "*Be it enacted by the legislature of the State of Kansas;*" and no law shall be enacted except by bill.

SEC. 21. The legislature may confer upon tribunals transacting the county business of the several counties such powers of local legislation and administration as it shall deem expedient.

SEC. 22. For any speech or debate in either house the members shall not be questioned elsewhere. No member of the legislature shall be subject to arrest, except for felony or breach of the peace, in going to or returning from the place of meeting, or during the continuance of the session; neither shall he be subject to the service of any civil process during the session, nor for fifteen days previous to its commencement.

SEC. 23. The legislature, in providing for the formation and regulation of schools, shall make no distinction between the rights of males and females.

SEC. 24. No money shall be drawn from the treasury except in pursuance of a specific appropriation made by law; and no appropriation shall be for a longer term than one year.

SEC. 25. All sessions of the legislature shall be held at the State capital, and all regular sessions shall commence annually on the second Tuesday of January.

SEC. 26. The legislature shall provide for taking an enumeration of the inhabitants of the State at least once in ten years. The first enumeration shall be taken A. D. 1865.

SEC. 27. The house of representatives shall have the sole power to impeach. All impeachments shall be tried by the Senate; and, when sitting for that purpose, the senators shall take an oath to do justice according to the law and the evidence. No person shall be convicted without the concurrence of two-thirds of the senators elected.

SEC. 28. The governor, and all other officers under this constitution, shall be subject to impeachment for any misdemeanor in office; but judgment in all such cases shall not be extended further than to removal from office and disqualification to hold any office of profit, honor, or trust, under this constitution; but the party, whether acquitted or convicted, shall be liable to indictment, trial, judgment, and punishment according to law.

ARTICLE III.

JUDICIAL.

SECTION 1. The judicial power of this State shall be vested in a supreme court, district courts, probate courts, justices of the peace, and such other courts, inferior to the supreme court, as may be provided by law; and all courts of record shall have a seal, to be used in the authentication of all process.

SEC. 2. The supreme court shall consist of one chief justice and two associate justices, (a majority of whom shall constitute a quorum,) who shall be elected by the electors of the State at large, and whose term of office, after the first, shall be six years. At the first election a chief justice shall be chosen for six years, one associate justice for four years, and one for two years.

SEC. 3. The supreme court shall have original jurisdiction in proceedings in *quo warranto*, *mandamus*, and *habeas corpus*, and such appellate jurisdiction as may be provided by law. It shall hold one term each year at the seat of government, and such other terms at such places as may be provided by law, and its jurisdiction shall be coextensive with the State.

SEC. 4. There shall be appointed, by the justices of the supreme court, a reporter and clerk of said court, who shall hold their offices two years, and whose duties shall be prescribed by law.

SEC. 5. The State shall be divided into five judicial districts, in each of which there shall be elected, by the electors thereof, a district judge, who shall hold his office for the term of four years. District courts shall be held at such times and places as may be provided by law.

SEC. 6 The district courts shall have such jurisdiction in their respective districts as may be provided by law.

SEC. 7. There shall be elected in each organized county a clerk of the district court, who shall hold his office two years, and whose duties shall be prescribed by law.

SEC. 8. There shall be a probate court in each county, which shall be a court of record, and have such probate jurisdiction and care of estates of deceased persons, minors, and persons of unsound minds as may be prescribed by law, and shall have jurisdiction in cases of *habeas corpus*. This court shall consist of one judge, who shall be elected by the qualified voters of the county, and hold his office two years. He shall be his own clerk, and shall hold court at such times and receive for compensation such fees as may be prescribed by law.

SEC. 9. Two justices of the peace shall be elected in each township, whose term of office shall be two years, and whose powers and duties shall be prescribed by law. The number of justices of the peace may be increased in any township by law.

SEC. 10. All appeals from probate courts and justices of the peace shall be to the district court.

SEC. 11. All the judicial officers provided for by this article shall be elected at the first election under this constitution, and shall reside in their respective townships, counties, or districts during their respective terms of office. In case of vacancy in any judicial office, it shall be filled by appointment of the governor until the next regular election that shall occur more than thirty days after such vacancy shall have happened.

SEC. 12. All judicial officers shall hold their offices until their successors shall have qualified.

SEC. 13. The justices of the supreme court and judges of the district courts shall, at stated times, receive for their services such compensation as may be provided by law, which shall not be increased during their respective terms of office: *Provided*, Such compensation shall not be less than fifteen hundred dollars to each justice or judge each year; and such justices or judges shall receive no fees or perquisites, nor hold any other office of profit or trust, under the authority of the State or the United States, during the term of office for which such justices and judges shall be

elected, nor practice law in any of the courts in the State during their continuance in office.

SEC. 14. Provision may be made by law for the increase of the number of judicial districts whenever two-thirds of the members of each house shall concur. Such districts shall be formed of compact territory and bounded by county-lines, and such increase shall not vacate the office of any judge.

SEC. 15. Justices of the supreme court and judges of the district courts may be removed from office by resolution of both houses, if two-thirds of the members of each house concur. But no such removal shall be made except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have had notice and opportunity to be heard.

SEC. 16. The several justices and judges of the courts of record in this State shall have such jurisdiction at chambers as may be provided by law.

SEC. 17. The style of all process shall be "The State of Kansas," and all prosecutions shall be carried on in the name of the State.

SEC. 18. Until otherwise provided by law, the first district shall consist of the counties of Wyandotte, Leavenworth, Jefferson, and Jackson. The second district shall consist of the counties of Atchison, Doniphan, Brown, Nemaha, Marshall, and Washington. The third district shall consist of the counties of Pottawatomie, Riley, Clay, Dickinson, Davis, Waubaunsee, and Shawnee. The fourth district shall consist of the counties of Douglas, Johnson, Lykins, Franklin, Anderson, Linn, Bourbon, and Allen. The fifth district shall consist of the counties of Osage, Coffey, Woodson, Greenwood, Madison, Breckinridge, Morris, Chase, Butler, and Hunter.

SEC. 19. New or unorganized counties shall by law be attached for judicial purposes to the most convenient judicial district.

SEC. 20. Provision shall be made by law for the selection, by the bar, of a *pro tempore* judge of the district court, when the judge is absent or otherwise unable or disqualified to sit in any case.

ARTICLE IV.

ELECTIONS.

SECTION 1. All elections by the people shall be by ballot, and all elections by the legislature shall be *viva voce*.

SEC. 2. General elections shall be held annually on the Tuesday succeeding the first Monday in November. Township elections shall be held on the first Tuesday in April, until otherwise provided by law.

ARTICLE V.

SUFFRAGE.

SECTION 1. Every white male person, of twenty-one years and upwards, belonging to either of the following classes, who shall have resided in Kansas six months next preceding any election, and in the township or ward in which he offers to vote at least thirty days next preceding such election, shall be deemed a qualified elector: 1st, citizens of the United States; 2d, persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization.

SEC. 2. No person under guardianship, *non compos mentis*, or insane, shall be qualified to vote; nor any person convicted or treason or felony, unless restored to civil rights.

SEC. 3. No soldier, seaman, or marine in the Army or Navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State in consequence of being stationed within the same; nor shall any soldier, seaman, or marine have the right to vote.

SEC. 4. The legislature shall pass such laws as may be necessary for ascertaining by proper proofs the citizens who shall be entitled to the right of suffrage hereby established.

SEC. 5. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or shall go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

SEC. 6. Every person who shall have given or offered a bribe to procure his election shall be disqualified from holding office during the term for which he may have been elected.

SEC. 7. Electors, during their attendance at elections, and in going to and returning therefrom, shall be privileged from arrest in all cases except treason, felony, or breach of the peace.

ARTICLE VI.

EDUCATION.

SECTION 1. The State superintendent of public instruction shall have the general supervision of the common-school funds and educational interest of the State, and perform such other duties as may be prescribed by law. A superintendent of public instruction shall be elected in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law.

SEC. 2. The legislature shall encourage the promotion of intellectual, moral, scientific, and agricultural improvement, by establishing a uniform system of common schools, and schools of a higher grade, embracing normal, preparatory, collegiate, and university departments.

SEC. 3. The proceeds of all lands that have been or may be granted by the United States to the State for the support of schools, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of public lands among the several States of the Union, approved September 4, A. D. 1841, and all estates of persons dying without heir or will, and such per cent. as may be granted by Congress on the sale of lands in this State, shall be the common property of the State, and shall be a perpetual school-fund, which shall not be diminished, but the interest of which, together with all the rents of the lands, and such other means as the legislature may provide, by tax or otherwise, shall be inviolably appropriated to the support of common schools.

SEC. 4. The income of the State school-funds shall be disbursed annually, by order of the State superintendent, to the several county treasurers, and thence to the treasurer of the several school-districts, in equitable proportion to the number of children and youth resident therein between the ages of five and twenty-one years: *Provided*, That no school-district in which a common school has not been maintained at least three months in each year shall be entitled to receive any portion of such funds.

SEC. 5. The school-lands shall not be sold unless such sale shall be authorized by a vote of the people at a general election; but, subject to revaluation every five years, they may be leased for any number of years, not exceeding twenty-five, at a rate established by law.

SEC. 6. All money which shall be paid by persons as an equivalent for exemption from military duty, the clear proceeds of estrays, ownership of which shall vest in the taker-up, and the proceeds of fines for any breach of the penal laws, shall be exclusively applied, in the several counties in which the money is paid or fines collected, to the support of common schools.

SEC. 7. Provision shall be made by law for the establishment, at some eligible and central point, of a State university, for the promotion of literature and the arts and sciences, including a normal and an agricultural department. All funds arising from the sale or rents of lands granted by the United States to the State for the support of a State university, and all other grants, donations, or bequests, either by the State or by individuals, for such purpose, shall remain a perpetual fund, to be called the

"university fund;" the interest of which shall be appropriated to the support of the State university.

SEC. 8. No religious sect or sects shall ever control any part of the common-school or university funds of the State.

SEC. 9. The State superintendent of public instruction, secretary of state, and attorney-general shall constitute a board of commissioners for the management and investment of the school-funds. Any two of said commissioners shall be a quorum.

ARTICLE VII.

PUBLIC INSTITUTIONS.

SECTION 1. Institutions for the benefit of the insane, blind, and deaf and dumb, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be prescribed by law. Trustees of such benevolent institutions as may be hereafter created shall be appointed by the governor, by and with the advice and consent of the senate; and upon all nominations made by the governor the question shall be taken by yeas and nays and entered upon the journal.

SEC. 2. A penitentiary shall be established, the directors of which shall be appointed or elected, as prescribed by law.

SEC. 3. The governor shall fill any vacancy that may occur in the offices aforesaid, until the next session of the legislature, and until a successor to his appointee shall be confirmed and qualified.

SEC. 4. The respective counties of the State shall provide, as may be prescribed by law, for those inhabitants who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society.

ARTICLE VIII.

MILITIA.

SECTION 1. The militia shall be composed of all able-bodied white male citizens between the ages of twenty-one and forty-five years, except such as are exempted by the laws of the United States or of this State; but all citizens, of any religious denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be exempted therefrom, upon such conditions as may be prescribed by law.

SEC. 2. The legislature shall provide for organizing, equipping, and disciplining the militia in such manner as it shall deem expedient, not incompatible with the laws of the United States.

SEC. 3. Officers of the militia shall be elected or appointed and commissioned in such manner as may be provided by law.

SEC. 4. The governor shall be commander-in-chief, and shall have power to call out the militia to execute the laws, to suppress insurrection, and to repel invasion.

ARTICLE IX.

COUNTY AND TOWNSHIP ORGANIZATION.

SECTION 1. The legislature shall provide for organizing new counties, locating county-seats, and changing county-lines; but no county-seat shall be changed without the consent of a majority of the electors of the county, nor any county organized, nor the lines of any county changed, so as to include an area of less than four hundred and thirty-two square miles.

SEC. 2. The legislature shall provide for such county and township officers as may be necessary.

SEC. 3. All county officers shall hold their offices for the term of two years, and

until their successors shall be qualified; but no person shall hold the office of sheriff or county treasurer for more than two consecutive terms.

SEC. 4. Township officers, except justices of the peace, shall hold their offices one year from the Monday next succeeding their election, and until their successors are qualified.

SEC. 5. All county and township officers may be removed from office, in such manner and for such cause as shall be prescribed by law.

ARTICLE X.

APPORTIONMENT.

SECTION 1. In the future apportionment of the State each organized county shall have at least one representative, and each county shall be divided into as many districts as it has representatives.

SEC. 2. It shall be the duty of the first legislature to make an apportionment, based upon the census ordered by the last legislative assembly of the Territory; and a new apportionment shall be made in the year 1866, and every five years thereafter, based upon the census of the preceding year.

SEC. 3. Until there shall be a new apportionment, the State shall be divided into election-districts; and the representatives and senators shall be apportioned among the several districts as follows, viz:

First district, Doniphan County, two senators and four representatives.

Second district, Atchison and Brown Counties, two senators and six representatives.

Third district, Nemaha, Marshall, and Washington Counties, one senator and two representatives.

Fourth district, Clay, Riley, and Pottawatomie Counties, one senator and four representatives.

Fifth district, Dickinson, Davis, and Waubonsee Counties, one senator and three representatives.

Sixth district, Shawnee, Jackson, and Jefferson Counties, two senators and eight representatives.

Seventh district, Leavenworth County, three senators and nine representatives.

Eighth district, Douglas, Johnson, and Wyandotte Counties, four senators and thirteen representatives.

Ninth district, Lykins, Linn, and Bourbon Counties, three senators and nine representatives.

Tenth district, Allen, Anderson, and Franklin Counties, two senators and six representatives.

Eleventh district, Woodson and Madison Counties, one senator and two representatives.

Twelfth district, Coffey, Osage, and Breckinridge Counties, two senators and six representatives.

Thirteenth district, Morris, Chase, and Butler Counties, one senator and two representatives.

Fourteenth district, Arapahoe, Godfrey, Greenwood, Hunter, Wilson, Dorn, and McGee, one representative.

ARTICLE XI.

FINANCE AND TAXATION.

SECTION 1. The legislature shall provide for a uniform and equal rate of assessment and taxation; but all property used exclusively for State, county, municipal, literary, educational, scientific, religious, benevolent, and charitable purposes, and personal property to the amount of at least two hundred dollars for each family, shall be exempted from taxation.

SEC. 2. The legislature shall provide for taxing the notes and bills discounted or purchased, moneys loaned, and other property, effects, or dues of every description, (without deduction,) of all banks now existing, or hereafter to be created, and of all bankers; so that all property employed in banking shall always bear a burden of taxation equal to that imposed upon the property of individuals.

SEC. 3. The legislature shall provide, each year, for raising revenue, sufficient to defray the current expenses of the State.

SEC. 4. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same; to which object only such tax shall be applied.

SEC. 5. For the purpose of defraying extraordinary expenses and making public improvements, the State may contract public debts; but such debts shall never, in the aggregate, exceed one million dollars, except as hereinafter provided. Every such debt shall be authorized by law for some purpose specified therein, and the vote of a majority of all the members elected to each house, to be taken by the yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal thereof, when it shall become due; and shall specifically appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed, nor the taxes postponed or diminished, until the interest and principal of such debts shall have been wholly paid.

SEC. 6. No debt shall be contracted by the State except as herein provided, unless the proposed law for creating such debt shall first be submitted to a direct vote of the electors of the State at some general election; and if such proposed law shall be ratified by a majority of all the votes cast at such general election, then it shall be the duty of the legislature next after such election to enact such law and create such debt, subject to all the provisions and restrictions provided in the preceding sections of this article.

SEC. 7. The State may borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or to the repayment of the debt thereby created.

SEC. 8. The State shall never be a party in carrying on any works of internal improvement.

ARTICLE XII.

CORPORATIONS.

SECTION 1. The legislature shall pass no special act conferring corporate powers. Corporations may be created under general laws; but all such laws may be amended or repealed.

SEC. 2. Dues from corporations shall be secured by individual liability of the stockholders to an additional amount equal to the stock owned by each stockholder, and such other means as shall be provided by law; but such individual liabilities shall not apply to railroad corporations, nor corporations for religious or charitable purposes.

SEC. 3. The title to all property of religious corporations shall vest in trustees, whose election shall be by the members of such corporations.

SEC. 4. No right of way shall be appropriated to the use of any corporation until full compensation therefor be first made in money, or secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation.

SEC. 5. Provision shall be made by general law for the organization of cities, towns, and villages; and their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit shall be so restricted as to prevent the abuse of such power.

SEC. 6. The term corporations, as used in this article, shall include all associations and joint-stock companies having powers and privileges not possessed by individuals or partnerships; and all corporations may sue and be sued in their corporate name.

ARTICLE XIII.

BANKS AND CURRENCY.

SECTION 1. No bank shall be established otherwise than under a general banking-law.

SEC. 2. All banking-laws shall require, as collateral security for the redemption of the circulating notes of any bank organized under their provisions, a deposit with the auditor of state of the interest-paying bonds of the several States or of the United States, at the cash rates of the New York stock-exchange, to an amount equal to the amount of circulating notes which such bank shall be authorized to issue, and a cash deposit in its vaults of 10 per cent. of such amount of circulating notes; and the auditor shall register and countersign no more circulating bills of any bank than the cash-value of such bonds when deposited.

SEC. 3. Whenever the bonds pledged as collateral security for the circulation of any bank shall depreciate in value, the auditor of state shall require additional security, or curtail the circulation of such bank to such extent as will continue the security unimpaired.

SEC. 4. All circulating notes shall be redeemable in the money of the United States. Holders of such notes shall be entitled, in case of the insolvency of such banks, to preference of payment over all other creditors.

SEC. 5. The State shall not be a stockholder in any banking institution.

SEC. 6. All banks shall be required to keep offices and officers for the issue and redemption of their circulation, at a convenient place within the State, to be named on the circulating notes issued by such bank.

SEC. 7. No banking institution shall issue circulating notes of a less denomination than five dollars,

SEC. 8. No banking-law shall be in force until the same shall have been submitted to a vote of the electors of the State at some general election, and approved by a majority of all the votes cast at such election.

SEC. 9. Any banking-law may be amended or repealed.

ARTICLE XIV.

AMENDMENTS.

SECTION 1. Propositions for the amendment of this constitution may be made by either branch of the legislature; and if two-thirds of all the members elected to each house shall concur therein, such proposed amendments, together with the yeas and nays, shall be entered on the journal; and the secretary of state shall cause the same to be published in at least one newspaper in each county of the State where a newspaper is published, for three months preceding the next election for representatives, at which time the same shall be submitted to the electors for their approval or rejection; and if a majority of the electors voting on said amendments, at said election, shall adopt the amendments, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately; and not more than three propositions to amend shall be submitted at the same election.

SEC. 2. Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election of members to the legislature for or against a convention; and if a majority of all the electors voting at such election shall have voted for a convention, the legislature shall, at the next session, provide for calling the same.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. All officers whose election or appointment is not otherwise provided for shall be chosen or appointed as may be prescribed by law.

SEC. 2. The tenure of any office not herein provided for may be declared by law; when not so declared, such office shall be held during the pleasure of the authority making the appointment, but the legislature shall not create any office the tenure of which shall be longer than four years.

SEC. 3. Lotteries and the sale of lottery-tickets are forever prohibited.

SEC. 4. All public printing shall be let on contract, to the lowest responsible bidder, by such executive officers, and in such manner, as shall be prescribed by law.

SEC. 5. An accurate and detailed statement of the receipts and expenditures of the public moneys, and the several amounts paid, to whom, and on what account, shall be published, as prescribed by law.

SEC. 6. The legislature shall provide for the protection of the rights of women in acquiring and possessing property, real, personal, and mixed, separate and apart from the husband; and shall also provide for their equal rights in the possession of their children.

SEC. 7. The legislature may reduce the salaries of officers who shall neglect the performance of any legal duty.

SEC. 8. The temporary seat of government is hereby located at the city of Topeka, county of Shawnee. The first legislature under this constitution shall provide by law for submitting the question of the permanent location of the capital to a popular vote, and a majority of all the votes cast at some general election shall be necessary for such location.

SEC. 9. A homestead to the extent of one hundred and sixty acres of farming-land, or of one acre within the limits of an incorporated town or city, occupied as a residence by the family of the owner, together with all the improvements on the same, shall be exempted from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife, when that relation exists; but no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon: *Provided*, The provisions of this section shall not apply to any process of law obtained by virtue of a lien given by the consent of both husband and wife.

SCHEDULE.

SECTION 1. That no inconvenience may arise from the change from a territorial government to a permanent State government, it is declared by this constitution that all suits, rights, actions, prosecutions, recognizances, contracts, judgments, and claims, both as respects individuals and bodies-corporate, shall continue as if no change had taken place.

SEC. 2. All fines, penalties, and forfeitures, owing to the Territory of Kansas, or any county, shall inure to the use of the State or county. All bonds executed to the Territory, or any officer thereof, in his official capacity, shall pass over to the governor, or other officers of the State or county, and their successors in office, for the use of the State or county, or by him or them to be respectively assigned over to the use of those concerned, as the case may be.

SEC. 3. The governor, secretary, and judges, and all other officers, both civil and military, under the territorial government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of this constitution.

SEC. 4. All laws and parts of laws in force in the Territory at the time of the acceptance of this constitution by Congress, not inconsistent with this constitution, shall continue and remain in full force until they expire or shall be repealed.

SEC. 5. The governor shall use his private seal until a State seal is provided.

SEC. 6. The governor, secretary of state, auditor of state, treasurer of state, attorney-



general, and superintendent of public instruction, shall keep their respective offices at the seat of government.

SEC. 7. All records, documents, books, papers, moneys, and vouchers belonging and pertaining to the several territorial courts and offices, and to the several districts and county offices, at the date of the admission of this State into the Union, shall be disposed of in such manner as may be prescribed by law.

SEC. 8. All suits, pleas, plaints, and other proceedings pending in any court of record, or justice's court, may be prosecuted to final judgment and execution; and all appeals, writs of error, *certiorari*, injunctions, or other proceedings whatever, may progress and be carried on as if this constitution had not been adopted, and the legislature shall direct the mode in which suits, pleas, plaints, prosecutions, and other proceedings, and all papers, records, books, and documents connected therewith, may be removed to the courts established by this constitution.

SEC. 9. For the purpose of taking the vote of the electors of this Territory for the ratification or rejection of this constitution, an election shall be held in the several voting-precincts in this Territory on the first Tuesday in October, A. D. 1859.

SEC. 10. Each elector shall express his assent or dissent by voting a written or printed ballot labelled "For the constitution," or "Against the constitution."

SEC. 11. If a majority of all the votes cast at such election shall be in favor of the constitution, then there shall be an election held in the several voting-precincts on the first Tuesday in December, A. D. 1859, for the election of members of the first legislature, of all State, district, and county officers provided for in this constitution, and for a Representative in Congress.

SEC. 12. All persons having the qualifications of electors, according to the provisions of this constitution, at the date of each of said elections, and who shall have been duly registered according to the provisions of the registry law of this Territory, and none others, shall be entitled to vote at each of said elections.

SEC. 13. The persons who may be judges of the several voting-precincts of this Territory at the date of the respective elections in this schedule provided for shall be the judges of the respective elections herein provided for.

SEC. 14. The said judges of election, before entering upon the duties of their office, shall take and subscribe an oath faithfully to discharge their duties as such. They shall appoint two clerks of election, who shall be sworn by one of said judges faithfully to discharge their duties as such. In the event of a vacancy in the board of judges, the same shall be filled by the electors present.

SEC. 15. At each of the elections provided for in this schedule the polls shall be opened between the hours of nine and ten o'clock a. m., and closed at sunset.

SEC. 16. The tribunals transacting county business of the several counties shall cause to be furnished to the boards of judges in their respective counties two poll-books for each election hereinbefore provided for, upon which the clerks shall inscribe the name of every person who may vote at the said elections.

SEC. 17. After closing the polls at each of the elections provided for in this schedule, the judges shall proceed to count the votes cast, and designate the persons or objects for which they were cast, and shall make two correct tally-lists of the same.

SEC. 18. Each of the boards of judges shall safely keep one poll-book and tally-list, and the ballots cast at each election; and shall, within ten days after such election, cause the other poll-book and tally-list to be transmitted, by the hands of a sworn officer, to the clerk of the board transacting county business in their respective counties, or to which the county may be attached for municipal purposes.

SEC. 19. The tribunals transacting county business shall assemble at the county-seats of their respective counties on the second Tuesday after each of the elections provided for in this schedule, and shall canvass the votes cast at the elections held in the several precincts in their respective counties, and of the counties attached for municipal purposes. They shall hold in safe-keeping the poll-books and tally-lists of said elections, and shall, within ten days thereafter, transmit, by the hands of a sworn officer, to the president of this convention, at the city of Topeka, a certified transcript of the same, showing the number of votes cast for each person or object voted for at

each of the several precincts in their respective counties, and in the counties attached for municipal purposes, separately.

SEC. 20. The governor of the Territory, and the president and secretary of this convention, shall constitute a board of State canvassers, any two of whom shall be a quorum; and who shall, on the fourth Monday after each of the elections provided for in this schedule, assemble at said city of Topeka, and proceed to open and canvass the votes cast at the several precincts in the different counties of the Territory, and declare the result; and shall immediately issue certificates of election to all persons (if any) thus elected.

SEC. 21. Said board of State canvassers shall issue their proclamation not less than twenty days next preceding each of the elections provided for in this schedule. Said proclamation shall contain an announcement of the several elections, the qualifications of electors, the manner of conducting said elections and of making the returns thereof, as in this constitution provided, and shall publish said proclamation in one newspaper in each of the counties of the Territory in which a newspaper may be then published.

SEC. 22. The board of State canvassers shall provide for the transmission of authenticated copies of the constitution to the President of the United States, the President of the Senate, and Speaker of the House of Representatives.

SEC. 23. Upon official information having been by him received of the admission of Kansas into the Union as a State, it shall be the duty of the governor-elect under the constitution to proclaim the same, and to convene the legislature, and do all things else necessary to the complete and active organization of the State government.

SEC. 24. The first legislature shall have no power to make any changes in county-lines.

SEC. 25. At the election to be held for the ratification or rejection of this constitution, each elector shall be permitted to vote on the homestead provision contained in the article on "Miscellaneous," by depositing a ballot inscribed "For the homestead," or "Against the homestead;" and if a majority of all the votes cast at said election shall be against said provision, then it shall be stricken from the constitution.

RESOLUTIONS.

Resolved, That the Congress of the United States is hereby requested, upon the application of Kansas for admission into the Union, to pass an act granting to the State forty-five hundred thousand acres of land to aid in the construction of railroads and other internal improvements.

Resolved, That Congress be further requested to pass an act appropriating fifty thousand acres of land for the improvement of the Kansas River from its mouth to Fort Riley.

Resolved, That Congress be further requested to pass an act granting all swamp-lands within the State for the benefit of common schools.

Resolved, That Congress be further requested to pass an act appropriating five hundred thousand dollars, or, in lieu thereof, five hundred thousand acres of land, for the payment of the claims awarded to citizens of Kansas by the claim commissioners appointed by the governor and legislature of Kansas under an act of the territorial legislature passed February 7, 1859.

Resolved, That the legislature shall make provision for the sale or disposal of the lands granted to the State in aid of internal improvements, and for other purposes, subject to the same rights of preëmption to the settlers thereon as are now allowed by law to settlers on the public lands.

Resolved, That it is the desire of the people of Kansas to be admitted into the Union with this constitution.

Resolved, That Congress be further requested to assume the debt of this Territory.

Done in convention, at Wyandotte, this 29th day of July, A. D. 1859.

JAMES M. WINCHELL, *President*.

JOHN A. MARTIN, *Secretary*.

AMENDMENTS TO THE CONSTITUTION OF 1859.

RATIFIED 1861.

ART. XIII. SEC. 7. No banking institution shall issue circulating notes of a less denomination than five dollars.

RATIFIED 1864.

ART. II SEC. 12. Bills may originate in either house, but may be amended or rejected by the other.

ART. V. SEC. 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, or on the high seas, nor while a student in any seminary of learning, nor while kept at any almshouse or other asylum at public expense, nor while confined in any public prison; and the legislature may make provisions for taking the votes of electors who may be absent from their townships or wards in the volunteer military service of the United States, or the militia service of this State; but nothing herein contained shall be deemed to allow any soldier, seaman, or marine in the Regular Army or Navy of the United States the right to vote.

RATIFIED 1867.

ART. V. SEC. 2. No person under guardianship, *non compos mentis*, or insane; no person convicted of felony, unless restored to civil rights; no person who has been dishonorably discharged from the service of the United States, unless reinstated; no person guilty of defrauding the Government of the United States, or any of the States thereof; no person guilty of giving or receiving a bribe, or offering to give or receive a bribe; and no person who has ever voluntarily borne arms against the Government of the United States, or in any manner voluntarily aided or abetted in the attempted overthrow of said Government, except all persons who have been honorably discharged from the military service of the United States since the first day of April, A. D. 1861, provided that they have served one year or more therein, shall be qualified to vote or hold office in this State, until such disability shall be removed by a law passed by a vote of two-thirds of all the members of both branches of the legislature.

RATIFIED 1868.

ART. XV. SEC. 4. All public printing shall be done by a State printer, who shall be elected by the legislature, in joint session, and shall hold his office for two years, and until his successor shall be elected and qualified. The joint session of the legislature, for the election of a State printer, shall be on the third Tuesday of January, A. D. 1869, and every two years thereafter. All public printing shall be done at the capital, and the prices of the same shall be regulated by law.

RATIFIED 1875.

ART. II. SEC. 25. All sessions of the legislature shall be held at the State capital, and beginning with the session of eighteen hundred and seventy-seven, all regular sessions shall be held once in two years, commencing on the second Tuesday of January of each alternate year thereafter.

ART. XI. SEC. 3. The legislature shall provide, at each regular session, for raising sufficient revenue to defray the current expenses of the State for two years.

ART. II. SEC. 29. At the general election held in eighteen hundred and seventy-six, and thereafter, members of the house of representatives shall be elected for two years, and members of the senate shall be elected for four years.

RATIFIED 1876.

ART. IX. SEC. 3. All county officers shall hold their offices for the term of two years, and until their successors shall be qualified, except county commissioners, who shall hold their offices for the term of three years: *Provided*, That at the general election in the year eighteen hundred and seventy-seven the commissioner elected from district number one in each county shall hold his office for the term of one year, the commissioner elected from district number two in each county shall hold his office for the term of two years, and the commissioner elected from district number three in each county shall hold his office for the term of three years; but no person shall hold the office of sheriff or county treasurer for more than two consecutive terms.

KENTUCKY.*

THE THREE CHARTERS OF VIRGINIA—1606, 1609, 1611-'12.

[See "Virginia," pages 1888-1902.]

CONSTITUTION OF VIRGINIA—1776.

[See "Virginia," pages 1910-1912.]

THE TERRITORY SOUTH OF THE OHIO—1790.

[FIRST CONGRESS, SECOND SESSION.]

An Act for the government of the territory south of the river Ohio.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the territory of the United States south of the river Ohio, for the purposes of temporary government, shall be one district; the inhabitants of which shall enjoy all the privileges, benefits, and advantages set forth in the ordinance of the late Congress for the government of the territory of the United States northwest of the river Ohio.† And the government of the said territory south of the Ohio shall be similar to that which is now exercised in the territory northwest of the Ohio; except so far as is otherwise provided in the conditions expressed in an act of Congress of the present session, entitled "An act to accept a cession of the claims of the State of North Carolina to a certain district of western territory."‡

SEC. 2. *And be it further enacted*, That the salaries of the officers, which the President of the United States shall nominate, and with the advice and consent of the Senate appoint, by virtue of this act, shall be the same as those, by law established, of similar officers in the government northwest of the river Ohio. And the powers, duties, and emoluments of a superintendent of Indian affairs for the southern department shall be united with those of the governor.

APPROVED, May 26, 1790.

ACT ADMITTING KENTUCKY INTO THE UNION—1791.

[FIRST CONGRESS, THIRD SESSION.]

Whereas the legislature of the commonwealth of Virginia, by an act entitled "An act concerning the erection of the district of Kentucky into an independent State," passed the eighteenth day of December, one thousand seven hundred and eighty-

* Kentucky was originally settled by the whites as a colony of Virginia, but after the revolutionary war the settlers demanded an independent government, under the following provision in the first constitution of Virginia: "The western and northern extent of Virginia shall, in all other respects, stand, as fixed by the charter of King James I, in the year 1609, and by the public treaty of peace between the courts of Great Britain and France, in the year 1763, unless by act of this legislature one or more governments be established westward of the Alleghany Mountains." It was not, however, until after there had been ten successive conventions elected by the people of the "district," and four successive enabling acts passed by the legislature of Virginia, that Kentucky was allowed to enter the Federal Union as an independent State, on an equality with those which had established themselves as a nation.

† See "Illinois," pages 429.

‡ See "Tennessee," pages 1664.



nine, have consented that the district of Kentucky, within the jurisdiction of the said commonwealth, and according to its actual boundaries at the time of passing the act aforesaid, should be formed into a new State; and whereas a convention of delegates, chosen by the people of the said district of Kentucky, have petitioned Congress to consent that, on the first day of June, one thousand seven hundred and ninety-two, the said district should be formed into a new State, and received into the Union, by the name of "The State of Kentucky:"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, and it is hereby enacted and declared, That the Congress doth consent that the said district of Kentucky, within the jurisdiction of the commonwealth of Virginia, and according to its actual boundaries on the eighteenth day of December, one thousand seven hundred and eighty-nine, shall, upon the first day of June, one thousand seven hundred and ninety-two, be formed into a new State, separate from, and independent of, the said commonwealth of Virginia.

SEC. 2. *And be it further enacted and declared,* That upon the aforesaid first day of June, one thousand seven hundred and ninety-two, the said new State, by the name and style of the State of Kentucky, shall be received and admitted into this Union as a new and entire member of the United States of America.

CONSTITUTION OF KENTUCKY—1792.*

We, the representatives of the people of the State of Kentucky, in convention assembled, do ordain and establish this constitution for its government.

ARTICLE I.

The powers of government shall be divided into three distinct departments, each of them to be confided to a separate body of magistracy, to wit, those which are legislative to one, those which are executive to another, and those which are judiciary to another.

No person, or collection of persons, being of one of these departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly permitted.

The legislative powers of this commonwealth shall be vested in a general assembly, which shall consist of a senate and house of representatives.

The representatives shall be chosen annually, by the qualified electors of each county respectively, on the first Tuesday in May; but the several elections may be continued for three days, if, in the opinion of the presiding officer or officers, it shall be necessary, and no longer.

No person shall be a representative who shall not have attained the age of twenty-four years, and have been a citizen and inhabitant of the State two years preceding his election, and the last six months thereof an inhabitant of the county in which he may be chosen; unless he shall have been absent on the public business of the United States, or this State.

Within two years after the first meeting of the general assembly, and within every subsequent term of four years, an enumeration of the free male inhabitants above twenty-one years of age shall be made, in such manner as may be directed by law. The number of the representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the several counties, according to the number of free male inhabitants above the age of twenty-one years in

* This constitution was adopted by a convention which met at Danville April 2, 1792, and completed its labors on the 19th of April, 1792. The constitution was not submitted to the people for ratification.

each, and shall never be less than forty, nor greater than one hundred; but no county hereafter erected shall be entitled to a separate representation, until a sufficient number of free male inhabitants above the age of twenty-one years shall be contained within it, to entitle them to one representative, agreeable to the ratio which shall then be established.

The senators shall be chosen for four years. Until the first enumeration be made, the senate shall consist of eleven members, and thereafter for every four members added to the house of representatives, one member shall be added to the senate.

In choosing the senate, one member at least shall be elected from each county, until the number of counties is equal to the number of senators; after which, when a new county is made, it shall, as to the choice of senators, be considered as being a part of the county or counties from which it shall have been taken.

The senate shall be chosen in the following manner: All persons qualified to vote for representatives shall, on the first Tuesday in May, in the present year, and on the same day in every fourth year, forever thereafter, at the place appointed by law for choosing representatives, elect by ballot, by a majority of votes, as many persons as they are entitled to have for representatives for their respective counties, to be electors of the senate.

No person shall be chosen an elector who shall not have resided in the State three years next before his election, and who shall not have attained the age of twenty-seven years.

The electors of the senate shall meet at such place as shall be appointed for convening the legislature, on the third Tuesday in May, in the present year, and on the same day in every fourth year forever thereafter; and they, or a majority of them so met, shall proceed to elect by ballot, as senators, men of the most wisdom, experience, and virtue, above twenty-seven years of age, who shall have been residents of the State above two whole years next preceding the election. If on the ballot two or more shall have an equal number of ballots in their favor, by which the choice shall not be determined by the first ballot, then the electors shall again ballot before they separate, in which they shall be confined to the persons who, on the first ballot, shall have had an equal number, and they who shall have the greatest number in their favor on the second ballot shall be accordingly declared and returned duly elected; and if on the second ballot an equal number shall still be in favor of two or more persons, then the election shall be determined by lot between those who have equal numbers; which proceedings of the electors shall be certified under their hands, and returned to the secretary for the time being; to whom shall also be made, by the proper officers, returns of the persons chosen as electors in the respective counties.

The electors of senators shall judge of the qualifications and elections of members of their body, and on a contested election shall admit to a seat as an elector such qualified person as shall appear to them to have the greatest number of legal votes in his favor.

The electors, immediately on their meeting, and before they proceed to the election of senators, shall take an oath, or affirmation, to elect, without favor, affection, partiality, or prejudice, such person for governor, and such persons for senators, as they in their judgment and conscience believe best qualified for the respective offices.

That in case of refusal, death, resignation, disqualification, or removal out of this State, of any senator, the senate shall immediately thereupon, or at their next meeting thereafter, elect, by ballot, in the same manner as the electors are herein directed to choose senators, another person in his place, for the residue of the said term of four years.

The general assembly shall meet on the first Monday in November in every year, till the time of their meeting shall be altered by the legislature, unless sooner convened by the governor.

Each house shall choose its speaker and other officers, and the senate shall also choose a speaker, *pro tempore*, when their speaker shall exercise the office of governor.

Each house shall judge of the qualifications of its members; contested elections shall be determined by a committee to be selected, formed, and regulated, in such manner as shall be directed by law. A majority of each house shall constitute a

quorum to do business, but a smaller number may adjourn from day to day, and may be authorized by law to compel the attendance of absent members, in such manner and under such penalties as may be provided.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member; but not a second time for the same cause.

Each house shall keep a journal of its proceedings, and publish them weekly, except such parts of them as may require secrecy, and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journals.

The doors of each house and of committees of the whole shall be open, unless when the business shall be such as ought to be kept secret.

Neither house shall, without the consent of the other, adjourn for more than three days; nor to any other place than that in which the two houses shall be sitting.

The members of the general assembly and the electors of the senate shall receive from the public treasury a compensation for their services, which for the present shall be six shillings a day during their attendance on, going to, and returning from the legislature, and the place for choosing the senators; but the same may be increased or diminished by law, if circumstances shall require it, but no alteration shall be made to take effect during the existence of the legislature which shall make such alteration. They shall in all cases, except treason, felony, breach, or surety of the peace, be privileged from arrest during their attendance at the session of the respective houses, and at the place for choosing senators, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he shall have been elected, or for one year afterwards, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall have been increased, during the time such senator or representative was in office: *Provided*, That no member of the first legislature which shall be assembled under this constitution shall be precluded from being appointed to any office which may have been created during his time of service in the said legislature; and no minister of religious society, member of Congress, or other person holding any office of profit under the United States, or this commonwealth, except attorneys at law, justices of the peace, militia officers, and coroners, shall be a member of either house, during his continuance to act as a minister, in Congress, or in office.

When vacancies happen in the house of representatives, the speaker shall issue writs of election to fill such vacancies.

All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as in other bills.

Each senator, representative, and sheriff shall, before he be permitted to act as such, take an oath, or make affirmation, that he hath not directly or indirectly given or promised any bribe or treat to procure his election to said office, and every person shall be disqualified from serving as a senator, representative, or sheriff, for the term for which he shall have been elected, who shall be convicted of having given or offered any bribe or treat, or canvassed for the said office.

Every bill which shall have passed both houses shall be presented to the governor; if he approve, he shall sign it, but if he shall not approve, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon their journals, and proceed to reconsider it; if after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent with the objections to the other house, by which likewise it shall be reconsidered, and, if approved by two-thirds of that house, it shall be a law. But in such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journals of each house respectively; if any bill shall not be returned by the governor within ten days, Sundays excepted, after it shall have been presented to him, it shall be a law in like manner as if he had signed it; unless the general assembly by their adjournment prevent

its return, in which case it shall be a law, unless sent back within three days after their next meeting.

Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect be approved by him; or, being disapproved, shall be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

ARTICLE II.

The supreme executive power of this commonwealth shall be vested in a governor.

The governor shall be chosen by the electors of the senate, at the same time, at the same place, and in the same manner that they are herein directed to elect senators, and the said electors shall make return of their proceedings in the choice of a governor to the secretary for the time being.

The governor shall hold his office during four years from the first of June next ensuing his election.

He shall be at least thirty years of age, and have been a citizen and inhabitant of this State at least two years next before his election, unless he shall have been absent on public business of the United States, or of this State.

No member of Congress, or person holding any office under the United States, or this State, shall exercise the office of governor.

The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected.

He shall be commander-in-chief of the army and navy of this commonwealth, and of the militia, except when they shall be called into the service of the United States.

He shall nominate and, by and with the advice and consent of the senate, appoint all officers whose offices are established by this constitution, or shall be established by law, and whose appointments are not herein otherwise provided for; but no person shall be appointed to an office within any county who shall not have been a citizen or inhabitant therein one year next before his appointment, if the county shall have been so long erected; but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.

The governor shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.

He shall have power to remit fines and forfeitures, and grant reprieves and pardons, except in cases of impeachment; in cases of treason, he shall have power to grant reprieves until the end of the next session of the general assembly, in whom the power of pardoning shall be vested.

He may require information in writing from the officers in the executive department upon any subject relating to the duties of their respective offices.

He shall, from time to time, give to the general assembly information of the state of the commonwealth, and recommend to their consideration such measures as he shall judge expedient.

He may, on extraordinary occasions, convene the general assembly, and in case of disagreement between the two houses, with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months.

He shall take care that the laws be faithfully executed.

In case of the death or resignation of the governor, or of his removal from office, the speaker of the senate shall exercise the office of governor, until another shall be duly qualified.

An attorney-general shall be appointed and commissioned during good behavior; who shall appear for the commonwealth in all criminal prosecutions, and in all civil cases in which the commonwealth shall be interested in any of the superior courts; shall give his opinion when called upon for that purpose by either branch of the

legislature, or by the executive, and shall perform such other duties as shall be enjoined him by law.

A secretary shall be appointed and commissioned during the governor's continuance in office, if he shall so long behave himself well; he shall keep a fair register of and attest all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before either branch of the legislature, and shall perform such other duties as shall be enjoined him by law.

ARTICLE III.

In elections by the citizens, all free male citizens of the age of twenty-one years, having resided in the State two years, or the county in which they offer to vote one year next before the election, shall enjoy the rights of an elector, but no person shall be entitled to vote except in the county in which he shall actually reside at the time of the election.

All elections shall be by ballot.

Electors shall in all cases, except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from them.

ARTICLE IV.

The house of representatives shall have the sole power of impeaching.

All impeachments shall be tried by the senate; when sitting for that purpose, the senators shall be upon oath or affirmation; no person shall be convicted without the concurrence of two-thirds of the members present.

The governor and all other civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit under this commonwealth; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

ARTICLE V.

The judicial power of this commonwealth, both as to matters of law and equity, shall be vested in one supreme court, which shall be styled the court of appeals, and in such inferior courts as the legislature may from time to time ordain and establish.

The judges of both the supreme and inferior courts shall hold their offices during good behavior; but for any reasonable cause which shall not be sufficient ground of impeachment, the governor may remove any of them on the address of two-thirds of each branch of the legislature. They shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office.

The supreme court shall have original and final jurisdiction in all cases respecting the titles to land under the present land-laws of Virginia, including those which may be depending in the present supreme court for the district of Kentucky at the time of establishing the said supreme court; and in all cases concerning contracts for lands, prior to the establishment of those titles. And the said court shall have power to hear and determine the same in a summary way, and to direct the mode of bringing the same to a hearing, so as to enable them to do right and justice to the parties, with as little delay and at as small an expense as the nature of the business will allow; but the said court shall, in all such cases, oblige the parties to state the material parts of their complaint and defence in writing; and shall, on the conclusion of every cause, state on the records of the whole merits of the case, the questions arising therefrom, the opinions of the court thereupon, and a summary of the reasons in support of those opinions.

And it shall be the duty of each judge of the supreme court, present at the hearing of any such case, and differing from a majority of the court, to deliver his opin-

ion in writing, to be entered as aforesaid; and each judge shall deliver his opinion in open court. And the said court shall have power, on the determination of any such cause, to award the legal costs against either party, or to divide the same among the different parties, as to them shall seem just and right. And the said court shall have full power to take such steps as they may judge proper to perpetuate testimony in all cases concerning such titles: *Provided*, That a jury shall always be impanelled for the finding of such facts as are not agreed by the parties; unless the parties, or their attorneys, shall waive their right of trial by jury and refer the matter of fact to the decision of the court: *Provided also*, That the legislature may, whenever they may judge it expedient, pass an act or acts to regulate the mode of proceedings in such cases, or to take away entirely the original jurisdiction hereby given to the said court in such cases.

In all other cases the supreme court shall have appellate jurisdiction only, with such exceptions and under such regulations as the legislature shall make; and the legislature may, from time to time, vest in the supreme and inferior courts, or either of them, such powers, both in law and equity, as they shall judge proper and necessary for the due administration of justice.

A competent number of justices of the peace shall be appointed in each county; they shall be commissioned during good behavior, but may be removed on conviction of misbehavior in office, or any infamous crime, or on the address of both houses of the legislature.

The judges shall, by virtue of their office, be conservators of the peace throughout the State. The style of all process shall be, "The Commonwealth of Kentucky;" all prosecutions shall be carried on in the name and by the authority of the commonwealth of Kentucky, and conclude "against the peace and dignity of the same."

ARTICLE VI.

Sheriffs and coroners shall, at the times and places of elections of representatives, be chosen by the citizens of each county, qualified to vote for representatives. They shall hold their office for three years, if they shall so long behave themselves well, and until a successor be duly qualified; but no person shall be twice chosen or appointed sheriff in any term of six years. Vacancies in either of the said offices shall be filled by a new appointment, to be made by the governor, to continue until the next general election, and until a successor shall be chosen and qualified as aforesaid.

The freemen of this commonwealth shall be armed and disciplined for its defence. Those who conscientiously scruple to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

The field and staff officers of the militia shall be appointed by the governor, except the battalion staff-officers, who shall be appointed by the field-officers of each battalion respectively.

The officers of companies shall be chosen by the persons enrolled in the list of each company, and the whole shall be commissioned during good behavior, and during their residence in the bounds of the battalion or company to which they shall be appointed.

Each court shall appoint its own clerk, who shall hold his office during good behavior; but no person shall be appointed clerk, only *pro tempore*, who shall not produce to the court appointing him a certificate from a majority of the judges of the court of appeals that he hath been examined by their clerk, in their presence and under their direction, and that they judge him to be well qualified to execute the office of clerk to any court of the same dignity with that for which he offers himself. They shall be removable for breach of good behavior by the court of appeals only, who shall be judges of the fact as well as of the law. Two-thirds of the members present must concur in the sentence.

All commissions shall be in the name and by the authority of the State of Kentucky, and be sealed with the State seal and signed by the governor.

The State treasurer shall be appointed annually by the joint ballot of both houses.

ARTICLE VII.

Members of the general assembly and all officers, executive and judicial, before they enter upon the execution of their respective offices, shall take the following oath or affirmation: "I do solemnly swear [or affirm, as the case may be] that I will be faithful and true to the commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my abilities, the office of ———, according to law."

ARTICLE VIII.

Treason against the commonwealth shall consist only in levying war against it, or in adhering to its enemies, giving them aid or comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on his own confession in open court.

Laws shall be made to exclude from office and from suffrage those who thereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practices.

No money shall be drawn from the treasury but in consequence of appropriations made by law, nor shall any appropriations of money for the support of an army be made for a longer term than one year, and a regular statement and account of the receipts and expenditures of all public money shall be published annually.

The legislature shall direct by law in what manner and what courts suits may be brought against the State.

The manner of administering an oath or affirmation shall be such as is most consistent with the conscience of the deponent, and shall be esteemed by the legislature the most solemn appeal to God.

All laws now in force in the State of Virginia, not inconsistent with this constitution, which are of a general nature, and not local to the eastern part of that State, shall be in force in this State, until they shall be altered or repealed by the legislature.

The compact with the State of Virginia, subject to such alterations as may be made therein, agreeably to the mode prescribed by the said compact, shall be considered as a part of this constitution.

ARTICLE IX.

The legislature shall have no power to pass laws for the emancipation of slaves without the consent of their owners, previous to such emancipation, and a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to this State from bringing with them such persons as are deemed slaves by the laws of any one of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State. They shall pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming chargeable to the county in which they reside. They shall have full power to prevent slaves being brought into this State as merchandize. They shall have full power to prevent any slaves being brought into this State from a foreign country, and to prevent those from being brought into this State who have been since the first day of January, one thousand seven hundred and eighty-nine, or hereafter may be, imported into any of the United States from a foreign country. And they shall have full power to pass such laws as may be necessary to oblige the owners of slaves to treat them with humanity, to provide for them necessary clothing and provision, to abstain from all injuries to them extending to life or limb, and in case of their neglect or refusal to comply with the directions of such laws, to have such slave or slaves sold for the benefit of their owner or owners.

ARTICLE X.

The place for the seat of government shall be fixed in the following manner: The house of representatives shall, during their session which shall be held in the year

one thousand seven hundred and ninety-two, choose by ballot twenty-one persons, from whom the representation from Fayette and Mercer Counties then present shall alternately strike out one, until the number shall be reduced to five, who, or any three of them concurring in opinion, shall have power to fix on the place for the seat of government, to receive grants from individuals therefor, and to make such conditions with the proprietor or proprietors of the land so pitched on by them as to them shall seem right, and shall be agreed to by the said proprietor or proprietors, and to lay off a town thereon, in such manner as they shall judge most proper.

The general assembly and the supreme courts shall within five years hold their sessions at the place so pitched upon by the said commissioners; and the seat of government so fixed shall continue until it shall be changed by two-thirds of both branches of the legislature. The commissioners, before they proceed to act, shall take an oath or make affirmation that they will discharge the trust imposed on them in such manner as in their judgment will be most beneficial to the State at large.

ARTICLE XI.

That the citizens of this State may have an opportunity to amend or change this constitution in a peaceable manner, if to them it shall seem expedient, the persons qualified to vote for representatives shall, at the general election to be held in the year one thousand seven hundred and ninety-seven, vote also, by ballot, for or against a convention, as they shall severally choose to do; and if thereupon it shall appear that a majority of all the citizens in the State voting for representatives have voted for a convention, the general assembly shall direct that a similar ballot shall be taken the next year; and if thereupon it shall also appear that a majority of all the citizens in the State voting for representatives have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there shall be in the house of representatives, to be chosen in the same manner, (at the same places and at the same time that representatives are,) by the citizens entitled to vote for representatives, and to meet within three months after the said election for the purpose of readopting, amending, or changing this constitution. If it shall appear upon the ballot of either year that a majority of the citizens voting for representatives is not in favor of a convention being called, it shall not be done until two-thirds of both branches of the legislature shall deem it expedient.

ARTICLE XII.

That the general, great, and essential principles of liberty and free government may be recognized and unalterably established, we declare that all men, when they form a social compact, are equal, and that no man or set of men are entitled to exclusive or separate public emoluments or privileges from the community, but in consideration of public services.

That all power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, and happiness. For the advancement of those ends, they have at all times an unalienable and indefeasible right to alter, reform, or abolish their government, in such manner as they may think proper.

That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man of right can be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; that no human authority can in any case whatever control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious societies or modes of worship.

That the civil rights, privileges, or capacities of any citizen shall in no ways be diminished or enlarged on account of his religion.

That all elections shall be free and equal.

That trial by jury shall be as heretofore, and the right thereof remain inviolate.

That the printing-press shall be free to every person who undertakes to examine the proceedings of the legislature or any branch of government, and no law shall

ever be made to restrain the right thereof. The free communications of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

In prosecutions for publications of papers, investigating the official conduct of officers or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable searches and seizures; and that no warrant to search any place or to seize any person or things, shall issue without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.

That in all criminal prosecutions the accused hath a right to be heard by himself and his counsel; to demand the nature and cause of accusation against him; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; that he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, unless by the judgment of his peers, or the law of the land.

That no person shall for any indictable offence be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger, or by leave of the court for oppression or misdemeanor in office.

No person shall, for the same offence, be twice put in jeopardy of his life or limb, nor shall any man's property be taken or applied to public use without the consent of his representatives, and without just compensation being previously made to him.

That all courts shall be open, and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by the due course of law, and right and justice administered, without sale, denial, or delay.

That no power of suspending laws shall be exercised, unless by the legislature or its authority.

That excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

That all prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or presumption great, and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

That no *ex post facto* law nor any law impairing contracts shall be made.

That no persons shall be attainted of treason or felony by the legislature.

That no attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the commonwealth.

That estates of such persons as shall destroy their own lives shall descend or vest as in case of natural death, and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

That the citizens have a right in a peaceable manner to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

That the right of the citizens to bear arms in defence of themselves and the State shall not be questioned.

That no standing army shall, in time of peace, be kept up, without the consent of the legislature; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

That the legislature shall not grant any title of nobility or hereditary distinction,

nor create any office the appointment to which shall be for a longer term than during good behavior.

That emigration from the State shall not be prohibited.

To guard against the high powers which have been delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or contrary to this constitution, shall be void.

SCHEDULE.

That no inconvenience may rise from the establishing the government of this State, and in order to carry the same into complete operation, it is hereby declared and ordained, that all rights, actions, prosecutions, claims, and contracts, as well individuals as of bodies-corporate, shall continue as if the said government had not been established.

That all officers, civil and military, now in commission under the State of Virginia, shall continue to hold and exercise their offices until the tenth day of August next, and no longer.

That until the first enumeration shall be made, as directed by the sixth section of the first article of this constitution, the county of Jefferson shall be entitled to elect three representatives; the county of Lincoln, four representatives; the county of Fayette, nine representatives; the county of Nelson, six representatives; the county of Mercer, four representatives; the county of Madison, three representatives; the county of Bourbon, five representatives; the county of Woodford, four representatives; and the county of Mason, two representatives.

The general assembly shall meet at Lexington on the fourth day of June next.

All returns herein directed to be made to the secretary shall, previous to his appointment, be made to the clerk of the supreme court for the district of Kentucky.

Until a seal shall be provided for the State, the governor shall be at liberty to use his private seal.

The oaths of office herein directed to be taken may be administered by any justice of the peace, until the legislature shall otherwise direct.

All bonds given by any officer within the district of Kentucky, payable to the governor of Virginia, may be prosecuted in the name of the governor of Kentucky.

All offences against the laws of Virginia, which have been committed within the present district of Kentucky, or which may be committed within the same before the first day of June next, shall be cognizable in the courts of this State in the same manner that they would be if they were committed within this State, after the said first day of June.

At the elections herein directed to be held in May next, the sheriff of each county, or in case of his absence one of his deputies, shall preside, and if they neglect or refuse to act, the said elections shall be held by any one of the justices of the peace for the county where such neglect or refusal shall happen; each officer holding such election, having first taken an oath before a justice of the peace to conduct the said election with impartiality, shall have power to administer to any person offering to vote at such election the following oath or affirmation: "I do swear [or affirm] that I am qualified to vote for representatives in the county of ———, agreeably to the constitution formed for the State of Kentucky;" and such officers shall have a right to refuse to receive the vote of any person who shall refuse to take the said oath or make affirmation when tendered to him. And the said elections shall be held at the several places appointed for holding courts in the different counties.

The government of the commonwealth of Kentucky shall commence on the first day of June next.

Done in convention, at Danville, the nineteenth day of April, one thousand seven hundred and ninety-two, and of the Independence of the United States of America the sixteenth.

By order of the convention.

SAMUEL McDOWELL, *President.*

Attest: THO. TODD, *Clerk.*

CONSTITUTION OF KENTUCKY—1799.*

We, the representatives of the people of the State of Kentucky, in convention assembled, to secure to all the citizens thereof the enjoyment of the right of life, liberty, and property, and of pursuing happiness, do ordain and establish this constitution for its government:

ARTICLE I.

CONCERNING THE LEGISLATIVE DEPARTMENT.

SECTION 1. The powers of the government of the State of Kentucky shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judiciary, to another.

SEC. 2. No person or collection of persons, being one of those departments, shall exercise any power properly belonging to either of the others; except in the instances hereinafter expressly directed or permitted.

ARTICLE II.

CONCERNING THE DISTRIBUTION OF THE POWERS OF THE GOVERNMENT.

SECTION 1. The legislative power of this commonwealth shall be vested in two distinct branches; the one to be styled "the house of representatives," the other "the senate," and both together "the general assembly of the commonwealth of Kentucky."

SEC. 2. The members of the house of representatives shall continue in service for the term of one year from the day of the commencement of the general election, and no longer.

SEC. 3. Representatives shall be chosen on the first Monday in the month of August in every year; but the presiding officers of the several elections shall continue the same for three days, at the request of any one of the candidates.

SEC. 4. No person shall be a representative who, at the time of his election, is not a citizen of the United States, and hath not attained to the age of twenty-four years, and resided in this State two years next preceding his election, and the last year thereof in the county or town for which he may be chosen.

SEC. 5. Elections for representatives for the several counties entitled to representation shall be held at the places of holding their respective courts, or in the several election precincts into which the legislature may think proper, from time to time, to divide any or all of those counties: *Provided*, That when it shall appear to the legislature that any town hath a number of qualified voters equal to the ratio then fixed, such town shall be invested with the privilege of a separate representation, which shall be retained so long as such town shall contain a number of qualified voters equal to the ratio which may, from time to time, be fixed by law, and thereafter elections, for the county in which such town is situated, shall not be held therein.

SEC. 6. Representation shall be equal and uniform in this commonwealth; and shall be forever regulated and ascertained by the number of qualified electors therein. In the year eighteen hundred and three, and every fourth year thereafter, an enumeration of all the free male inhabitants of the State, above twenty-one years of age, shall be made, in such manner as shall be directed by law. The number of representatives shall, in the several years of making these enumerations, be so fixed as not to be less than fifty-eight, nor more than one hundred, and they shall be apportioned for the four years next following, as near as may be, among the several counties and

* This constitution was framed by a convention, called in accordance with the eleventh article of the constitution of 1792, which met at Frankfort July 22, 1799, and completed its labors August 7, 1799. It was not submitted to the people, and it took effect January 1, 1800.

towns, in proportion to the number of qualified electors; but, when a county may not have a sufficient number of qualified electors to entitle it to one representative, and when the adjacent county or counties may not have a residuum or residuums, which, when added to the small county, would entitle it to a separate representation, it shall then be in the power of the legislature to join two or more together, for the purpose of sending a representative: *Provided*, That when there are two or more counties adjoining, which have residuums over and above the ratio when fixed by law, if said residuums when added together will amount to such ratio, in that case one representative shall be added to that county having the largest residuum.

SEC. 7. The house of representatives shall choose its speaker and other officers.

SEC. 8. In all elections for representatives, every free male citizen (negroes, mulattoes, and Indians excepted) who, at the time being, hath attained to the age of twenty-one years, and resided in the State two years, or the county or town in which he offers to vote one year next preceding the election, shall enjoy the right of an elector; but no person shall be entitled to vote, except in the county or town in which he may actually reside at the time of the election, except as is herein otherwise provided. Electors shall in all cases, except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at, going to, and returning from elections.

SEC. 9. The members of the senate shall be chosen for the term of four years; and, when assembled, shall have the power to choose its officers annually.

SEC. 10. At the first session of the general assembly after this constitution takes effect, the senators shall be divided by lot, as equally as may be, into four classes: the seats of the senators of the first class shall be vacated at the expiration of the first year; of the second class at the expiration of the second year; of the third class at the expiration of the third year; and of the fourth class at the expiration of the fourth year; so that one-fourth shall be chosen every year, and a rotation thereby kept up perpetually.

SEC. 11. The senate shall consist of twenty-four members at least, and for every three members above fifty-eight, which shall be added to the house of representatives, one member shall be added to the senate.

SEC. 12. The same number of senatorial districts shall, from time to time, be established by the legislature, as there may then be senators allotted to the State; which shall be so formed as to contain, as near as may be, an equal number of free male inhabitants in each, above the age of twenty-one years, and so that no county shall be divided, or form more than one district; and where two or more counties compose a district, they shall be adjoining.

SEC. 13. When an additional senator may be added to the senate, he shall be annexed by lot to one of the four classes, so as to keep them as nearly equal in number as possible.

SEC. 14. One senator for each district shall be elected by those qualified to vote for representatives therein, who shall give their votes at the several places in the counties or towns where elections are by law directed to be held.

SEC. 15. No person shall be a senator who, at the time of his election, is not a citizen of the United States, and who hath not attained to the age of thirty-five years, and resided in this State six years next preceding his election, and the last year thereof in the district from which he may be chosen.

SEC. 16. The first election for senators shall be general throughout the State, and at the same time that the general election for representatives is held; and thereafter there shall, in like manner, be an annual election for senators to fill the places of those whose time of service may have expired.

SEC. 17. The general assembly shall convene on the first Monday in the month of November in every year, unless a different day be appointed by law; and their session shall be held at the seat of government.

SEC. 18. Not less than a majority of the members of each house of the general assembly shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized by law to compel the attendance of absent members, in such manner, and under such penalties, as may be prescribed thereby.

SEC. 19. Each house of the general assembly shall judge of the qualifications, elections, and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

SEC. 20. Each house of the general assembly may determine the rules of its proceedings; punish a member for disorderly behavior; and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause.

SEC. 21. Each house of the general assembly shall keep and publish, weekly, a journal of its proceedings; and the years and nays of the members on any question shall, at the desire of any two of them, be entered on their journal.

SEC. 22. Neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 23. The members of the general assembly shall severally receive from the public treasury a compensation for their services, which shall be one dollar and a half a day, during their attendance on, going to, and returning from the session of their respective houses: *Provided*, That the same may be increased or diminished by law; but no alteration shall take effect during the session at which such alteration shall be made.

SEC. 24. The members of the general assembly shall, in all cases, except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 25. No senator or representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this commonwealth, which shall have been created, or the emoluments of which shall have been increased, during the time such senator or representative was in office, except to such offices or appointments as may be made or filled by the elections of the people.

SEC. 26. No person, while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society, or sect; nor whilst he holds or exercises any office of profit under this commonwealth, shall be eligible to the general assembly; except attorneys at law, justices of the peace, and militia officers: *Provided*, That justices of the courts of quarter-sessions shall be ineligible so long as any compensation may be allowed them for their services: *Provided also*, That attorneys for the commonwealth, who receive a fixed annual salary from the public treasury, shall be ineligible.

SEC. 27. No person who at any time may have been a collector of taxes for the State, or the assistant or deputy of such collector, shall be eligible to the general assembly until he shall have obtained a quietus for the amount of such collection, and for all public moneys for which he may be responsible.

SEC. 28. No bill shall have the force of a law until on three several days it be read over in each house of the general assembly, and free discussion allowed thereon; unless, in cases of urgency, four-fifths of the house where the bill shall be depending may deem it expedient to dispense with this rule.

SEC. 29. All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in other bills: *Provided*, That they shall not introduce any new matter, under the color of an amendment, which does not relate to raising a revenue.

SEC. 30. The general assembly shall regulate by law by whom and in what manner writs of election shall be issued to fill the vacancies which may happen in either branch thereof.

ARTICLE III.

CONCERNING THE EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of the commonwealth shall be vested in a chief magistrate, who shall be styled "the governor of the commonwealth of Kentucky."



SEC. 2. The governor shall be elected for the term of four years by the citizens entitled to suffrage at the time and places where they shall respectively vote for representatives. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, the election shall be determined by lot, in such manner as the legislature may direct.

SEC. 3. The governor shall be ineligible for the succeeding seven years after the expiration of the time for which he shall have been elected.

SEC. 4. He shall be at least thirty-five years of age, and a citizen of the United States, and have been an inhabitant of this State at least six years next preceding his election.

SEC. 5. He shall commence the execution of his office on the fourth Tuesday succeeding the day of the commencement of the general election on which he shall be chosen, and shall continue in the execution thereof until the end of four weeks next succeeding the election of his successor, and until his successor shall have taken the oaths or affirmations prescribed by this constitution.

SEC. 6. No member of Congress, or person holding any office under the United States, nor minister of any religious society, shall be eligible to the office of governor.

SEC. 7. The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 8. He shall be commander-in-chief of the army and navy of this commonwealth, and of the militia thereof, except when they shall be called into the service of the United States; but he shall not command personally in the field, unless he shall be advised so to do by a resolution of the general assembly.

SEC. 9. He shall nominate, and, by and with the advice and consent of the senate, appoint all officers whose offices are established by this constitution or shall be established by law, and whose appointments are not herein otherwise provided for: *Provided*, That no person shall be so appointed to an office within any county who shall not have been a citizen and inhabitant therein one year next before his appointment, if the county shall have been so long erected; but if it shall not have been so long erected, then within the limits of the county or counties from which it shall have been taken: *Provided also*, That the county courts be authorized by law to appoint inspectors, collectors, and their deputies, surveyors of the highways, constables, jailers, and such other inferior officers, whose jurisdiction may be confined within the limits of a county.

SEC. 10. The governor shall have power to fill up vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of the next session.

SEC. 11. He shall have power to remit fines and forfeitures, grant reprieves and pardons, except in cases of impeachment. In cases of treason, he shall have power to grant reprieves until the end of the next session of the general assembly; in which the power of pardoning shall be vested.

SEC. 12. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 13. He shall from time to time give to the general assembly information of the state of the commonwealth, and recommend to their consideration such measures as he shall deem expedient.

SEC. 14. He may on extraordinary occasions convene the general assembly at the seat of government, or at a different place, if that should have become, since their last adjournment, dangerous from an enemy or from contagious disorders; and in case of disagreement between the two houses, with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months.

SEC. 15. He shall take care that the laws be faithfully executed.

SEC. 16. A lieutenant-governor shall be chosen at every election for a governor, in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant-governor, the electors shall distinguish whom they vote for as governor, and whom as lieutenant-governor.

SEC. 17. He shall, by virtue of his office, be speaker of the senate; have a right, when in committee of the whole, to debate and vote on all subjects; and, when the senate are equally divided, to give the casting vote.

SEC. 18. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the lieutenant-governor shall exercise all the power and authority appertaining to the office of governor, until another be duly qualified, or the governor absent or impeached shall return or be acquitted.

SEC. 19. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as speaker of the senate, the senators shall elect one of their own members as speaker, for that occasion. And if, during the vacancy of the office of governor, the lieutenant-governor shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the speaker of the senate shall, in like manner, administer the government.

SEC. 20. The lieutenant-governor, while he acts as speaker to the senate, shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more; and during the time he administers the government as governor, shall receive the same compensation which the governor would have received and been entitled to had he been employed in the duties of his office.

SEC. 21. The speaker *pro tempore* of the senate, during the time he administers the government, shall receive in like manner the same compensation which the governor would have received had he been employed in the duties of his office.

SEC. 22. If the lieutenant-governor shall be called upon to administer the government, and shall, while in such administration, resign, die, or be absent from the State during the recess of the general assembly, it shall be the duty of the secretary for the time being to convene the senate for the purpose of choosing a speaker.

SEC. 23. An attorney-general, and such other attorneys for the commonwealth as may be necessary, shall be appointed, whose duty shall be regulated by law. Attorneys for the commonwealth, for the several counties, shall be appointed by the respective courts having jurisdiction therein.

SEC. 24. A secretary shall be appointed and commissioned during the term for which the governor shall have been elected, if he shall so long behave himself well. He shall keep a fair register, and attest all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers, relative thereto, before either house of the general assembly, and shall perform such other duties as may be enjoined him by law.

SEC. 25. Every bill which shall have passed both houses shall be presented to the governor; if he approve, he shall sign it, but if not, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon the journal, and proceed to reconsider it; if, after such reconsideration, a majority of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall be likewise considered, and if approved by a majority of all the members elected to that house, it shall be a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly by their adjournment prevent its return; in which case it shall be a law, unless sent back within three days after their next meeting.

SEC. 26. Every order, resolution, or vote to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him; or, being disapproved, shall be repassed, by a majority of all the members elected to both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 27. Contested elections for a governor and lieutenant-governor shall be deter-

mined by a committee to be selected from both houses of the general assembly, and formed and regulated in such manner as shall be directed by law.

SEC. 28. The freemen of this commonwealth (negroes, mulattoes, and Indians excepted) shall be armed and disciplined for its defence. Those who conscientiously scruple to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC. 29. The commanding officers of the respective regiments shall appoint the regimental staff; brigadier-generals, their brigade-majors; major-generals, their aids; and captains, the non-commissioned officers of companies.

SEC. 30. A majority of the field-officers and captains in each regiment shall nominate the commissioned officers in each company, who shall be commissioned by the governor: *Provided*, That no nomination shall be made, unless two at least of the field-officers are present; and, when two or more persons have an equal and the highest number of votes, the field-officer present, who may be highest in commission, shall decide the nomination.

SEC. 31. Sheriffs shall hereafter be appointed in the following manner: When time of a sheriff for any county may be about to expire, the county court for the same, a majority of all its justices being present, shall, in the months of September, October, or November, next preceding thereto, recommend to the governor two proper persons to fill the office, who are then justices of the county court, and who shall in such recommendation pay a just regard to seniority in office and a regular rotation. One of the persons so recommended shall be commissioned by the governor, and shall hold his office for two years, if he so long behave well, and until a successor be duly qualified. If the county courts shall omit, in the months aforesaid, to make such recommendation, the governor shall then nominate and, by and with the advice and consent of the senate, appoint a fit person to fill such office.

ARTICLE IV.

CONCERNING THE JUDICIAL DEPARTMENT.

SECTION 1. The judiciary power of this commonwealth, both as to matters of law and equity, shall be vested in one supreme court, which shall be styled the court of appeals, and in such inferior courts as the general assembly may from time to time erect and establish.

SEC. 2. The court of appeals, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only; which shall be coextensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may from time to time be prescribed by law.

SEC. 3. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; but for any reasonable cause, which shall not be sufficient ground of impeachment, the governor shall remove any of them on the address of two-thirds of each house of the general assembly: *Provided, however*, That the cause or causes for which such removal may be required shall be stated at length in such address, and on the journal of each house. They shall at stated times receive for their services an adequate compensation to be fixed by law.

SEC. 4. The judges shall, by virtue of their office, be conservators of the peace throughout the State. The style of all process shall be "The commonwealth of Kentucky." All prosecutions shall be carried on in the name and by the authority of the commonwealth of Kentucky, and conclude, "against the peace and dignity of the same."

SEC. 5. There shall be established in each county now, or which may hereafter be erected, within this commonwealth a county court.

SEC. 6. A competent number of justices of the peace shall be appointed in each county; they shall be commissioned during good behavior, but may be removed on conviction of misbehavior in office, or of any infamous crime, or on the address of two-thirds of each house of the general assembly: *Provided, however*, That the cause



or causes for which such removal may be required shall be stated at length in such address, on the journal of each house.

SEC. 7. The number of the justices of the peace to which the several counties in this commonwealth now established, or which may hereafter be established, ought to be entitled, shall, from time to time, be regulated by law.

SEC. 8. When a surveyor, coroner, or justice of the peace shall be needed in any county, the county court for the same, a majority of all its justices concurring therein, shall recommend to the governor two proper persons to fill the office, one of whom he shall appoint thereto: *Provided, however*, That if the county court shall for twelve months omit to make such recommendation, after being requested by the governor to recommend proper persons, he shall then nominate and, by and with the advice and consent of the senate, appoint a fit person to fill such office.

SEC. 9. When a new county shall be erected, a competent number of justices of the peace, a sheriff, and coroner therefor, shall be recommended to the governor by a majority of all the members of the house of representatives, from the senatorial district or districts in which the county is situated; and if either of the persons thus recommended shall be rejected by the governor or the senate, another person shall immediately be recommended as aforesaid.

SEC. 10. Each court shall appoint its own clerk, who shall hold his office during good behavior; but no person shall be appointed clerk, only *pro tempore*, who shall not produce to the court appointing him a certificate from a majority of the judges of the court of appeals that he had been examined by their clerk, in their presence and under their direction, and that they judge him to be well qualified to execute the office of clerk of any court of the same dignity with that for which he offers himself. They shall be removable for breach of good behavior, by the court of appeal only, who shall be judges of the fact as well as of the law. Two-thirds of the members present must concur in the sentence.

SEC. 11. All commissions shall be in the name and by the authority of the State of Kentucky, and sealed with the State seal, and signed by the governor.

SEC. 12. The state treasurer, and printer or printers for the commonwealth, shall be appointed annually by the joint vote of both houses of the general assembly: *Provided*, That during the recess of the same the governor shall have power to fill vacancies which may happen in either of the said offices.

ARTICLE V.

CONCERNING IMPEACHMENTS.

SECTION 1. The house of representatives shall have the sole power of impeaching.

SEC. 2. All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 3. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office; but judgment, in such cases, shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit under this commonwealth; but the party convicted shall nevertheless be liable and subject to indictment, trial, and punishment, according to law.

ARTICLE VI.

GENERAL PROVISIONS.

SECTION 1. Members of the general assembly, and all officers, executive and judicial, before they enter upon the execution of their respective offices, shall take the following oath or affirmation: "I do solemnly swear [or affirm, as the case may be] that I will be faithful and true to the commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my abilities, the office of ——, according to law."

SEC. 2. Treason against the commonwealth shall consist only in levying war against it or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 3. Every person shall be disqualified from serving as a governor, lieutenant-governor, senator, or representative, for the term for which he shall have been elected, who shall be convicted of having given or offered any bribe or treat to procure his election.

SEC. 4. Laws shall be made to exclude from office and from suffrage those who shall thereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practices.

SEC. 5. No money shall be drawn from the treasury but in pursuance of appropriations made by law, nor shall any appropriations of money for the support of an army be made for a longer time than one year; and a regular statement and account of the receipts and expenditures of all public money shall be published annually.

SEC. 6. The general assembly shall direct by law in what manner and in what courts suits may be brought against the commonwealth.

SEC. 7. The manner of administering an oath or affirmation shall be such as is most consistent with the conscience of the deponent, and shall be esteemed by the general assembly the most solemn appeal to God.

SEC. 8. All laws which, on the first day of June, one thousand seven hundred and ninety-two, were in force in the State of Virginia, and which are of a general nature, and not local to that State, and not repugnant to this constitution, nor to the laws which have been enacted by the legislature of this commonwealth, shall be in force within this State, until they shall be altered or repealed by the general assembly.

SEC. 9. The compact with the State of Virginia, subject to such alterations as may be made therein, agreeably to the mode prescribed by the said compact, shall be considered as part of this constitution.

SEC. 10. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties who may choose that summary mode of adjustment.

SEC. 11. All civil officers for the commonwealth at large shall reside within the State, and all district, county, or town officers within their respective districts, counties, or towns, (trustees of towns excepted,) and shall keep their respective offices at such places therein as may be required by law; and all militia officers shall reside in the bounds of the division, brigade, regiment, battalion, or company to which they may severally belong.

SEC. 12. The attorney-general, and other attorneys for this commonwealth who receive a fixed annual salary from the public treasury, judges, and clerks of courts, justices of the peace, surveyors of lands, and all commissioned militia officers shall hold their respective offices during good behavior and the continuance of their respective courts, under the exceptions contained in this constitution.

SEC. 13. Absence on the business of this State, or the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage or of being elected or appointed to any office under this commonwealth, under the exceptions contained in this constitution.

SEC. 14. It shall be the duty of the general assembly to regulate by law in what cases and what deduction from the salaries of public officers shall be made for neglect of duty in their official capacity.

SEC. 15. Returns of all elections for governor, lieutenant-governor, and members of the general assembly shall be made to the secretary for the time being.

SEC. 16. In all elections by the people, and also by the senate and house of representatives, jointly or separately, the votes shall be personally and publicly given *viva voce*.

SEC. 17. No member of Congress nor person holding or exercising any office of trust or profit under the United States, or either of them, or under any foreign power,

shall be eligible as a member of the general assembly of this commonwealth, or hold or exercise any office of trust or profit under the same.

SEC. 18. The general assembly shall direct by law how persons who now are, or may hereafter become, securities for public officers may be relieved or discharged on account of such securityship.

ARTICLE VII.

CONCERNING SLAVES.

SECTION 1. The general assembly shall have no power to pass laws for the emancipation of slaves without the consent of their owners, or without paying their owners, previous to such emancipation, a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to this State from bringing with them such persons as are deemed slaves by the laws of any of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State. They shall pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a charge to any county in this commonwealth. They shall have full power to prevent slaves being brought into this State as merchandise. They shall have full power to prevent any slaves being brought into this State who have been, since the first day of January, one thousand seven hundred and eighty-nine, or may hereafter be, imported into any of the United States from a foreign country. And they shall have full power to pass such laws as may be necessary to oblige the owners of slaves to treat them with humanity, to provide for them necessary clothing and provision, to abstain from all injuries to them extending to life or limb, and in case of their neglect or refusal to comply with the directions of such laws, to have such slave or slaves sold for the benefit of their owner or owners.

SEC. 2. In the prosecution of slaves for felony, no inquest by a grand jury shall be necessary, but the proceedings in such prosecutions shall be regulated by law, except that the general assembly shall have no power to deprive them of the privilege of an impartial trial by a petit jury.

ARTICLE VIII.

SECTION 1. The seat of government shall continue in the town of Frankfort, until it shall be removed by law: *Provided, however*, That two-thirds of all the members elected to each house of the general assembly shall concur in the passage of such law.

ARTICLE IX.

MODE OF REVISING THE CONSTITUTION.

SECTION 1. When experience shall point out the necessity of amending this constitution, and when a majority of all the members elected to each house of the general assembly shall, within the first twenty days of their stated annual session, concur in passing a law, specifying the alterations intended to be made, for taking the sense of the good people of this State as to the necessity and expediency of calling a convention, it shall be the duty of the several sheriffs and other returning officers, at the next general election which shall be held for representatives after the passage of such law, to open a poll for and make return to the secretary, for the time being, of the names of all those entitled to vote for representatives who have voted for calling a convention; and if thereupon it shall appear that a majority of all the citizens of this State entitled to vote for representatives have voted for a convention, the general assembly shall direct that a similar poll shall be opened and taken for the next year; and if thereupon it shall appear that a majority of all the citizens of this State entitled to vote for representatives have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there shall be in the house of representatives, and no more; to be chosen in the same manner and

proportion, at the same places and at the same time, that representatives are, by citizens entitled to vote for representatives; and to meet within three months after the said election for the purpose of readopting, amending, or changing this constitution. But if it shall appear, by the vote of either year, as aforesaid, that a majority of all the citizens entitled to vote for representatives did not vote for a convention, a convention shall not be called.

ARTICLE X.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare:

SECTION 1. That all free men, when they form a social compact, are equal, and that no man or set of men are entitled to exclusive, separate public emoluments or privileges from the community but in consideration of public services.

SEC. 2. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness. For the advancement of these ends, they have at all times an unalienable and indefeasible right to alter, reform, or abolish their government, in such manner as they may think proper.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; that no human authority ought, in any case whatever, to control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious societies or modes of worship.

SEC. 4. That the civil rights, privileges, or capacities of any citizen shall in no wise be diminished or enlarged on account of his religion.

SEC. 5. That all elections shall be free and equal.

SEC. 6. That the ancient mode of trial by jury shall be held sacred, and the right thereof remain inviolate.

SEC. 7. That printing-presses shall be free to every person who undertakes to examine the proceedings of the legislature or any branch of government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

SEC. 8. In prosecutions for the publication of papers investigating the official conduct of officers or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

SEC. 9. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures and searches; and that no warrant to search any place or to seize any person or thing, shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 10. That in all criminal prosecutions, the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; that he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, unless by the judgment of his peers, or the law of the land.

SEC. 11. That no person shall, for any indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces, or the militia, when in actual service, in time of war or public danger, by leave of the court, for oppression or misdemeanor in office.

SEC. 12. No person shall, for the same offence, be twice put in jeopardy of his life or limb, nor shall any man's property be taken or applied to public use without the consent of his representatives, and without just compensation being previously made to him.

SEC. 13. That all courts shall be open, and every person, for any injury done him in his lands, goods, person, or reputation, shall have remedy by the due course of laws, and right and justice administered without sale, denial, or delay.

SEC. 14. That no power of suspending laws shall be exercised, unless by the legislature or its authority.

SEC. 15. That excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 16. That all prisoners shall be bailable by sufficient securities, unless for capital offences, when the proof is evident or presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SEC. 17. That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

SEC. 18. That no *ex post facto* law, nor any law impairing contracts, shall be made.

SEC. 19. That no person shall be attainted of treason or felony by the legislature.

SEC. 20. That no attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the commonwealth.

SEC. 21. That the estates of such persons as shall destroy their own lives shall descend or vest as in case of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

SEC. 22. That the citizens have a right in a peaceable manner to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

SEC. 23. That the rights of the citizens to bear arms in defence of themselves and the State shall not be questioned.

SEC. 24. That no standing army shall, in time of peace, be kept up, without the consent of the legislature; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

SEC. 25. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

SEC. 26. That the legislature shall not grant any title of nobility or hereditary distinction, nor create any office the appointment to which shall be for a longer term than during good behavior.

SEC. 27. That emigration from this State shall not be prohibited.

SEC. 28. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or contrary to this constitution, shall be void.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments made in the constitution of this commonwealth, and in order to carry the same into complete operation, it is hereby declared and ordained:

SECTION 1. That all laws of this commonwealth in force at the time of making the said alterations and amendments, and not inconsistent therewith, and all rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies-corporate, shall continue as if the said alterations and amendments had not been made.

SEC. 2. That all officers now filling any office or appointment shall continue in the exercise of the duties of their respective offices or appointments for the terms therein expressed, unless by this constitution it is otherwise directed.

SEC. 3. The oaths of office herein directed to be taken may be administered by any justice of the peace until the legislature shall otherwise direct.

SEC. 4. The general assembly, to be held in November next, shall apportion the representatives and senators, and lay off the State into senatorial districts conform-

able to the regulations prescribed by this constitution. In fixing those apportionments, and in establishing those districts, they shall take for their guide the enumeration directed by law to be made in the present year by the commissioners of the tax, and the apportionments thus made shall remain unaltered until the end of the stated annual session of the general assembly in the year eighteen hundred and three.

SEC. 5. In order that no inconvenience may arise from the change made by this constitution in the time of holding the general election, it is hereby ordained that the first election for governor, lieutenant-governor, and members of the general assembly shall commence on the first Monday in May, in the year eighteen hundred. The persons then elected shall continue in office during the several terms of service prescribed by this constitution, and until the next general election which shall be held after their said terms shall have respectively expired. The returns for the said first election of governor and lieutenant-governor shall be made to the secretary within fifteen days from the day of election, who shall, as soon as may be, examine and count the same in the presence of at least two judges of the court of appeals or district courts, and shall declare who are the persons thereby duly elected, and give them official notice of their election; and if any person shall be equal and highest on the poll, the said judges and secretary shall determine the election by lot.

SEC. 6. This constitution, except so much thereof as is therein otherwise directed, shall not be in force until the first day of June, in the year eighteen hundred; on which day the whole thereof shall take full and complete effect.

Done in convention, at Frankfort, the seventeenth day of August, one thousand seven hundred and ninety-nine, and of the Independence of the United States of America the twenty-fourth.

ALEXANDER S. BULLIT, *President.*

CONSTITUTION OF KENTUCKY—1850.*

PREAMBLE.

We, the representatives of the people of the State of Kentucky in convention assembled, to secure to all the citizens thereof the enjoyment of the rights of life, liberty, and property, and of pursuing happiness, do ordain and establish this constitution for its government:

ARTICLE I.

CONCERNING THE DISTRIBUTION OF THE POWERS OF GOVERNMENT.

SECTION 1. The powers of the government of the State of Kentucky shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit, those which are legislative to one, those which are executive to another, and those which are judiciary to another.

SEC. 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE II.

CONCERNING THE LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power shall be vested in a house of representatives and senate, which together shall be styled "The General Assembly of the Commonwealth of Kentucky."

* This constitution was framed by a convention which met at Frankfort October 7, 1849, and completed its labors June 11, 1850. It was submitted to the people, and ratified by 71,563 votes against 20,302 votes.

SEC. 2. The members of the house of representatives shall continue in service for the term of two years from the day of the general election, and no longer.

SEC. 3. Representatives shall be chosen on the first Monday in August in every second year, and the mode of holding the elections shall be regulated by law.

SEC. 4. No person shall be a representative who, at the time of his election, is not a citizen of the United States, has not attained the age of twenty-four years; and who has not resided in this State two years next preceding his election, and the last year thereof in the county, town, or city for which he may be chosen.

SEC. 5. The general assembly shall divide each county of this commonwealth into convenient election-precincts, or may delegate power to do so to such county authorities as may be designated by law; and elections for representatives for the several counties shall be held at the places of holding their respective courts, and in the several election-precincts into which the counties may be divided: *Provided*, That when it shall appear to the general assembly that any city or town hath a number of qualified voters equal to the ratio then fixed, such city or town shall be invested with the privilege of a separate representation, in either or both houses of the general assembly, which shall be retained so long as such city or town shall contain a number of qualified voters equal to the ratio which may, from time to time, be fixed by law; and, thereafter, elections for the county in which such city or town is situated shall not be held therein; but such city or town shall not be entitled to a separate representation, unless such county, after the separation, shall also be entitled to one or more representatives. That whenever a city or town shall be entitled to a separate representation in either house of the general assembly, and by its numbers shall be entitled to more than one representative, such city or town shall be divided, by squares which are contiguous, so as to make the most compact form, into representative districts, as nearly equal as may be, equal to the number of representatives to which such city or town may be entitled; and one representative shall be elected from each district. In like manner shall said city or town be divided into senatorial districts, when by the apportionment more than one senator shall be allotted to such city or town, and a senator shall be elected from each senatorial district; but no ward or municipal division shall be divided by such division of senatorial or representative districts, unless it be necessary to equalize the elective, senatorial, or representative districts.

SEC. 6. Representation shall be equal and uniform in this commonwealth, and shall be forever regulated and ascertained by the number of qualified voters therein. In the year 1850, again in the year 1857, and every eighth year thereafter, an enumeration of all the qualified voters of the State shall be made; and, to secure uniformity and equality of representation, the State is hereby laid off into ten districts. The first district shall be composed of the counties of Fulton, Hickman, Ballard, McCracken, Graves, Calloway, Marshall, Livingston, Crittenden, Union, Hopkins, Caldwell, and Trigg. The second district shall be composed of the counties of Christian, Muhlenburg, Henderson, Daviess, Hancock, Ohio, Breckinridge, Meade, Grayson, Butler, and Edmonson. The third district shall be composed of the counties of Todd, Logan, Simpson, Warren, Allen, Monroe, Barren, and Hart. The fourth district shall be composed of the counties of Cumberland, Adair, Green, Taylor, Clinton, Russell, Wayne, Pulaski, Casey, Boyle, and Lincoln. The fifth district shall be composed of the counties of Harden, Larue, Bullitt, Spencer, Nelson, Washington, Marion, Mercer, and Anderson. The sixth district shall be composed of the counties of Garrard, Madison, Estill, Owsley, Rockcastle, Laurel, Clay, Whitley, Knox, Harlan, Perry, Letcher, Pike, Floyd, and Johnson. The seventh district shall be composed of the counties of Jefferson, Oldham, Trimble, Carroll, Henry, and Shelby, and the city of Louisville. The eighth district shall be composed of the counties of Bourbon, Fayette, Scott, Owen, Franklin, Woodford, and Jessamine. The ninth district shall be composed of the counties of Clarke, Bath, Montgomery, Fleming, Lewis, Greenup, Carter, Lawrence, Morgan, and Breathitt. The tenth district shall be composed of the counties of Mason, Bracken, Nicholas, Harrison, Pendleton, Campbell, Grant, Kenton, Boone, and Gallatin. The number of representatives shall, at the several sessions of the general assembly next after the making of the enumerations, be apportioned among

the ten several districts according to the number of qualified voters in each; and the representatives shall be apportioned, as near as may be, among the counties, towns, and cities in each district; and in making such apportionment the following rules shall govern, to wit: Every county, town, or city, having the ratio, shall have one representative; if double the ratio, two representatives, and so on. Next, the counties, towns, or cities having one or more representatives, and the largest number of qualified voters above the ratio, and counties having the largest number under the ratio, shall have a representative, regard being always had to the greatest number of qualified voters: *Provided*, That when a county may not have a sufficient number of qualified voters to entitle it to one representative, then such county may be joined to some adjacent county or counties, which counties shall send one representative. When a new county shall be formed of territory belonging to more than one district, it shall form a part of that district having the least number of qualified voters.

SEC. 7. The house of representatives shall choose its speaker and other officers.

SEC 8. Every free white male citizen of the age of twenty-one years, who has resided in the State two years, or in the county, town, or city in which he offers to vote one year, next preceding the election, shall be a voter; but such voter shall have been for sixty days next preceding the election a resident of the precinct in which he offers to vote, and he shall vote in said precinct, and not elsewhere.

SEC. 9. Voters, in all cases except treason, felony, breach or surety of the peace, shall be privileged from arrest during their attendance at, going to, and returning from elections.

SEC. 10. Senators shall be chosen for the term of four years, and the senate shall have power to choose its officers biennially.

SEC. 11. Senators and representatives shall be elected, under the first apportionment after the adoption of this constitution, in the year 1851.

SEC. 12. At the session of the general assembly next after the first apportionment under this constitution, the senators shall be divided by lot, as equally as may be, into two classes; the seats of the first class shall be vacated at the end of two years from the day of the election, and those of the second class at the end of four years, so that one-half shall be chosen every two years.

SEC. 13. The number of representatives shall be one hundred, and the number of senators thirty-eight.

SEC. 14. At every apportionment of representation, the State shall be laid off into thirty-eight senatorial districts, which shall be so formed as to contain, as near as may be, an equal number of qualified voters, and so that no county shall be divided in the formation of a senatorial district, except such county shall be entitled, under the enumeration, to two or more senators; and where two or more counties compose a district they shall be adjoining.

SEC. 15. One senator for each district shall be elected by the qualified voters therein, who shall vote in the precincts where they reside, at the places where elections are by law directed to be held.

SEC. 16. No person shall be a senator who, at the time of his election, is not a citizen of the United States, has not attained the age of thirty years, and who has not resided in this State six years next preceding his election, and the last year thereof in the district for which he may be chosen.

SEC. 17. The election for senators, next after the first apportionment under this constitution, shall be general throughout the State, and at the same time that the election for representatives is held, and thereafter there shall be a biennial election for senators to fill the places of those whose term of service may have expired.

SEC. 18. The general assembly shall convene on the first Monday in November, after the adoption of this constitution, and again on the first Monday in November, 1851, and on the same day of every second year thereafter, unless a different day be appointed by law, and their sessions shall be held at the seat of government.

SEC. 19. Not less than a majority of the members of each house of the general assembly shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and shall be authorized by law to compel the attendance of absent members in such manner and under such penalties as may be prescribed thereby.

SEC. 20. Each house of the general assembly shall judge of the qualifications, elections, and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

SEC. 21. Each house of the general assembly may determine the rules of its proceedings, punish a member for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause.

SEC. 22. Each house of the general assembly shall keep and publish, weekly, a journal of its proceedings, and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on their journal.

SEC. 23. Neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 24. The members of the general assembly shall severally receive from the public treasury a compensation for their services, which shall be three dollars a day during their attendance on, and twelve and a half cents per mile for the necessary travel in going to, and returning from, the sessions of their respective houses: *Provided*, That the same may be increased or diminished by law; but no alteration shall take effect during the session at which such alteration shall be made; nor shall a session of the general assembly continue beyond sixty days, except by a vote of two-thirds of all the members elected to each house, but this shall not apply to the first session held under this constitution.

SEC. 25. The members of the general assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 26. No senator or representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this commonwealth, which shall have been created, or the emoluments of which shall have been increased, during the said term, except to such offices or appointments as may be filled by the election of the people.

SEC. 27. No person, while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society, or sect, nor while he holds or exercises any office of profit under this commonwealth, or under the Government of the United States, shall be eligible to the general assembly, except attorneys at law, justices of the peace, and militia officers: *Provided*, That attorneys for the commonwealth, who receive a fixed annual salary, shall be ineligible.

SEC. 28. No person who at any time may have been a collector of taxes or public moneys for the State, or the assistant or deputy of such collector, shall be eligible to the general assembly unless he shall have obtained a quietus, six months before the election, for the amount of such collection, and for all public moneys for which he may have been responsible.

SEC. 29. No bill shall have the force of a law until, on three several days, it be read over in each house of the general assembly, and free discussion allowed thereon, unless, in cases of urgency, four-fifths of the house where the bill shall be depending may deem it expedient to dispense with this rule.

SEC. 30. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments, as in other bills: *Provided*, That they shall not introduce any new matter, under color of amendment, which does not relate to raising revenue.

SEC. 31. The general assembly shall regulate by law by whom and in what manner writs of election shall be issued to fill the vacancies which may happen in either branch thereof.

SEC. 32. The general assembly shall have no power to grant divorces, to change the names of individuals, or direct the sales of estates belonging to infants or other persons laboring under legal disabilities by special legislation; but by general laws shall confer such powers on the courts of justice.

SEC. 33. The credit of this commonwealth shall never be given or loaned in aid of any person, association, municipality, or corporation.

SEC. 34. The general assembly shall have no power to pass laws to diminish the resources of the sinking-fund, as now established by law, until the debt of the State be paid, but may pass laws to increase them; and the whole resources of said fund, from year to year, shall be sacredly set apart and applied to the payment of the interest and principal of the State debt, and to no other use or purpose, until the whole debt of the State is fully paid and satisfied.

SEC. 35. The general assembly may contract debts to meet casual deficits or failures in the revenue; but such debts, direct or contingent, singly or in the aggregate, shall not at any time exceed five hundred thousand dollars; and the moneys arising from loans creating such debts shall be applied to the purposes for which they were obtained or to repay such debts: *Provided*, That the State may contract debts to repel invasion, suppress insurrection, or, if hostilities are threatened, provide for the public defence.

SEC. 36. No act of the general assembly shall authorize any debt to be contracted on behalf of the commonwealth, except for the purposes mentioned in the thirty-fifth section of this article, unless provision be made therein to lay and collect an annual tax sufficient to pay the interest stipulated, and to discharge the debt within thirty years; nor shall such act take effect until it shall have been submitted to the people at a general election, and shall have received a majority of all the votes cast for or against it: *Provided*, That the general assembly may contract debts, by borrowing money to pay any part of the debt of the State, without submission to the people, and without making provision in the act authorizing the same for a tax to discharge the debt so contracted, or the interest thereon.

SEC. 37. No law enacted by the general assembly shall relate to more than one subject, and that shall be expressed in the title.

SEC. 38. The general assembly shall not change the venue in any criminal or penal prosecution, but shall provide for the same by general laws.

SEC. 39. The general assembly may pass laws authorizing writs of error in criminal or penal cases, and regulating the right of challenge of jurors therein.

SEC. 40. The general assembly shall have no power to pass any act or resolution for the appropriation of any money, or the creation of any debt, exceeding the sum of one hundred dollars, at any one time, unless the same, on its final passage, shall be voted for by a majority of all the members then elected to each branch of the general assembly, and the yeas and nays thereon entered on the journal.

ARTICLE III.

CONCERNING THE EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of the commonwealth shall be vested in a chief magistrate, who shall be styled the governor of the commonwealth of Kentucky.

SEC. 2. The governor shall be elected for the term of four years, by the qualified voters of the State, at the time when and places where they shall respectively vote for representatives. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, the election shall be determined by lot, in such manner as the general assembly may direct.

SEC. 3. The governor shall be ineligible for the succeeding four years after the expiration of the term for which he shall have been elected.

SEC. 4. He shall be at least thirty-five years of age, and a citizen of the United States, and have been an inhabitant of this State at least six years next preceding his election.

SEC. 5. He shall commence the execution of the duties of his office on the fifth Tuesday succeeding the day of the general election on which he shall have been chosen, and shall continue in the execution thereof until his successor shall have taken the oath or affirmation prescribed by this constitution.



SEC. 6. No member of Congress, or person holding any office under the United States, or minister of any religious society, shall be eligible to the office of governor.

SEC. 7. The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he was elected.

SEC. 8. He shall be commander-in-chief of the army and navy of this commonwealth, and of the militia thereof, except when they shall be called into the service of the United States; but he shall not command personally in the field, unless advised so to do by a resolution of the general assembly.

SEC. 9. He shall have power to fill vacancies that may occur, by granting commissions, which shall expire when such vacancies shall have been filled according to the provisions of this constitution.

SEC. 10. He shall have power to remit fines and forfeitures, grant reprieves and pardons, except in cases of impeachment. In cases of treason, he shall have power to grant reprieves until the end of the next session of the general assembly, in which the power of pardoning shall be vested; but he shall have no power to remit the fees of the clerk, sheriff, or commonwealth's attorney in penal or criminal cases.

SEC. 11. He may require information, in writing, from the officers in the executive department upon any subject relating to the duties of their respective offices.

SEC. 12. He shall, from time to time, give to the general assembly information of the state of the commonwealth, and recommend to their consideration such measures as he may deem expedient.

SEC. 13. He may, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place if that should have become, since their last adjournment, dangerous from an enemy or from contagious disorders; and in case of disagreement between the two houses, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not exceeding four months.

SEC. 14. He shall take care that the laws be faithfully executed.

SEC. 15. A lieutenant-governor shall be chosen at every regular election for governor, in the same manner, to continue in office for the same time, and possess the same qualifications, as the governor. In voting for governor and lieutenant-governor, the electors shall state for whom they vote as governor and for whom as lieutenant-governor.

SEC. 16. He shall, by virtue of his office, be speaker of the senate, have a right, when in committee of the whole, to debate and vote on all subjects, and, when the senate are equally divided, to give the casting vote.

SEC. 17. Should the governor be impeached, removed from office, die, refuse to qualify, resign, or be absent from the State, the lieutenant-governor shall exercise all the power and authority appertaining to the office of governor, until another be duly elected and qualified, or the governor absent or impeached shall return or be acquitted.

SEC. 18. Whenever the government shall be administered by the lieutenant-governor, or he shall fail to attend as speaker of the senate, the senators shall elect one of their own members as speaker for that occasion. And if, during the vacancy of the office of governor, the lieutenant-governor shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the speaker of the senate shall, in like manner, administer the government: *Provided*, That whenever a vacancy shall occur in the office of governor, before the first two years of the term shall have expired, a new election for governor shall take place to fill such vacancy.

SEC. 19. The lieutenant-governor, or speaker *pro tempore* of the senate, while he acts as speaker of the senate, shall receive for his services the same compensation which shall, for the same period, be allowed to the speaker of the house of representatives, and no more; and during the time he administers the government, as governor, shall receive the same compensation which the governor would have received had he been employed in the duties of his office.

SEC. 20. If the lieutenant-governor shall be called upon to administer the government, and shall, while in such administration, resign, die, or be absent from the State

during the recess of the general assembly, it shall be the duty of the secretary of state, for the time being, to convene the senate for the purpose of choosing a speaker.

SEC. 21. The governor shall nominate and, by and with the advice and consent of the senate, appoint a secretary of state, who shall be commissioned during the term for which the governor was elected, if he shall so long behave himself well. He shall keep a fair register, and attest all the official acts of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before either house of the general assembly; and shall perform such other duties as may be required of him by law.

SEC. 22. Every bill which shall have passed both houses shall be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, a majority of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be considered, and, if approved by a majority of all the members elected to that house, it shall be a law; but in such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journals of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return; in which case it shall be a law, unless sent back within three days after their next meeting.

SEC. 23. Every order, resolution, or vote in which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect be approved by him; or, being disapproved, shall be repassed by a majority of all the members elected to both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 24. Contested elections for governor and lieutenant-governor shall be determined by both houses of the general assembly, according to such regulations as may be established by law.

SEC. 25. A treasurer shall be elected by the qualified voters of the State, for the term of two years; and an auditor of public accounts, register of the land-office, and attorney-general for the term of four years. The duties and responsibilities of these officers shall be prescribed by law: *Provided*, That inferior State officers, not specially provided for in this constitution, may be appointed or elected, in such manner as shall be prescribed by law, for a term not exceeding four years.

SEC. 26. The first election under this constitution for governor, lieutenant-governor, treasurer, auditor of public accounts, register of the land-office, and attorney-general shall be held on the first Monday in August, in the year 1851.

ARTICLE IV.

CONCERNING THE JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this commonwealth, both as to matters of law and equity, shall be vested in one supreme court, (to be styled the court of appeals,) the courts established by this constitution, and such courts, inferior to the supreme court, as the general assembly may, from time to time, erect and establish.

CONCERNING THE COURT OF APPEALS.

SEC. 2. The court of appeals shall have appellate jurisdiction only, which shall be coextensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may, from time to time, be prescribed by law.

SEC. 3. The judges of the court of appeals shall, after their first term, hold their offices for eight years, from and after their election, and until their successors shall be

duly qualified, subject to the conditions hereinafter prescribed; but for any reasonable cause the governor shall remove any of them on the address of two-thirds of each house of the general assembly: *Provided, however*, That the cause or causes for which such removal may be required shall be stated at length in such address and on the journal of each house. They shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during the time for which they shall have been elected.

SEC. 4. The court of appeals shall consist of four judges, any three of whom may constitute a court for the transaction of business. The general assembly, at its first session after the adoption of this constitution, shall divide the State, by counties, into four districts, as nearly equal in voting population and with as convenient limits as may be, in each of which the qualified voters shall elect one judge of the court of appeals: *Provided*, That whenever a vacancy shall occur in said court, from any cause, the general assembly shall have the power to reduce the number of judges and districts; but in no event shall there be less than three judges and districts. Should a change in the number of the judges of the court of appeals be made, the term of office and number of districts shall be so changed as to preserve the principle of electing one judge every two years.

SEC. 5. The judges shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all process shall be "The Commonwealth of Kentucky." All prosecutions shall be carried on in the name and by the authority of the commonwealth of Kentucky, and conclude "against the peace and dignity of the same."

SEC. 6. The judges first elected shall serve as follows, to wit: One shall serve until the first Monday in August, 1852; one until the first Monday in August, 1854; one until the first Monday in August, 1856, and one until the first Monday in August, 1858. The judges, at the first term of the court succeeding their election, shall determine, by lot, the length of time which each one shall serve; and at the expiration of the service of each an election in the proper district shall take place to fill the vacancy. The judge having the shortest time to serve shall be styled the chief justice of Kentucky.

SEC. 7. If a vacancy shall occur in said court from any cause, the governor shall issue a writ of election to the proper district to fill such vacancy for the residue of the term: *Provided*, That if the unexpired term be less than one year, the governor shall appoint a judge to fill such vacancy.

SEC. 8. No person shall be eligible to the office of judge of the court of appeals who is not a citizen of the United States, a resident of the district for which he may be a candidate two years next preceding his election, at least thirty years of age, and who has not been a practising lawyer eight years, or whose service upon the bench of any court of record, when added to the time he may have practised law, shall not be equal to eight years.

SEC. 9. The court of appeals shall hold its sessions at the seat of government, unless otherwise directed by law; but the general assembly may, from time to time, direct that said court shall hold sessions in any one or more of said districts.

SEC. 10. The first election of the judges and clerks of the court of appeals shall take place on the second Monday in May, 1851, and thereafter, in each district, as a vacancy may occur, by the expiration of the term of office; and the judges of the said court shall be commissioned by the governor.

SEC. 11. There shall be elected, by the qualified voters of this State, a clerk of the court of appeals, who shall hold his office, from the first election, until the first Monday in August, 1858, and thereafter for the term of eight years from and after his election; and should the general assembly provide for holding the court of appeals in any one or more of said districts, they shall also provide for the election of a clerk by the qualified voters of such district, who shall hold his office for eight years, possess the same qualifications, and be subject to removal in the same manner, as the clerk of the court of appeals; but if the general assembly shall, at its first or any other session, direct the court of appeals to hold its sessions in more than one district, a clerk shall be elected by the qualified voters of such district. And the clerk

first provided for in this section shall be elected by the qualified voters of the other district or districts. The same principle shall be observed whenever the court shall be directed to hold its sessions in either of the other districts. Should the number of judges be reduced, the term of the office of clerk shall be six years.

SEC. 12. No person shall be eligible to the office of clerk of the court of appeals, unless he be a citizen of the United States, a resident of the State two years next preceding his election, of the age of twenty-one years, and have a certificate from a judge of the court of appeals, or a judge of a circuit court, that he has been examined by the clerk of his court, under his supervision, and that he is qualified for the office for which he is a candidate.

SEC. 13. Should a vacancy occur in the office of clerk of the court of appeals, the governor shall issue a writ of election, and the qualified voters of the State, or of the district in which the vacancy may occur, shall elect a clerk of the court of appeals, to serve until the end of the term for which such clerk was elected: *Provided*, That when a vacancy shall occur from any cause, or the clerk be under charges upon information, the judges of the court of appeals shall have power to appoint a clerk *pro tempore*, to perform the duties of clerk until such vacancy shall be filled or the clerk acquitted: *And provided further*, That no writ of election shall issue to fill a vacancy unless the unexpired term exceed one year.

SEC. 14. The general assembly shall direct, by law, the mode and manner of conducting and making due returns to the secretary of state of all elections of the judges and clerk or clerks of the court of appeals, and of determining contested elections of any of these officers.

SEC. 15. The general assembly shall provide for an additional judge or judges, to constitute, with the remaining judge or judges, a special court for the trial of such cause or causes as may, at any time, be pending in the court of appeals, on the trial of which a majority of the judges cannot sit, on account of interest in the event of the cause, or on account of their relationship to either party, or when a judge may have been employed in or decided the cause in the inferior court.

CONCERNING THE CIRCUIT COURTS.

SEC. 16. A circuit court shall be established in each county now existing, or which may hereafter be erected in this commonwealth.

SEC. 17. The jurisdiction of said court shall be and remain as now established, hereby giving to the general assembly the power to change or alter it.

SEC. 18. The right to appeal or sue out a writ of error to the court of appeals shall remain as it now exists, until altered by law, hereby giving to the general assembly the power to change, alter, or modify said right.

SEC. 19. At the first session after the adoption of this constitution, the general assembly shall divide the State into twelve judicial districts, having due regard to business, territory, and population: *Provided*, That no county shall be divided.

SEC. 20. They shall, at the same time that the judicial districts are laid off, direct elections to be held in each district, to elect a judge for said district, and shall prescribe in what manner the election shall be conducted. The first election of judges of the circuit court shall take place on the second Monday in May, 1851; and afterwards on the first Monday in August, 1856, and on the first Monday in August in every sixth year thereafter.

SEC. 21. All persons qualified to vote for members of the general assembly, in each district, shall have the right to vote for judges.

SEC. 22. No person shall be eligible as judge of the circuit court who is not a citizen of the United States, a resident of the district for which he may be a candidate two years next preceding his election, at least thirty years of age, and who has not been a practising lawyer eight years, or whose service upon the bench of any court of record, when added to the time he may have practised law, shall not be equal to eight years.

SEC. 23. The judges of the circuit court shall, after their first term, hold their office for the term of six years from the day of their election. They shall be commissioned

by the governor, and continue in office until their successors be qualified, but shall be removable from office in the same manner as the judges of the court of appeals; and the removal of a judge from his district shall vacate his office.

SEC. 24. The general assembly, if they deem it necessary, may establish one additional district every four years, but the judicial districts shall not exceed sixteen, until the population of this State shall exceed one million five hundred thousand.

SEC. 25. The judges of the circuit courts shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall be equal and uniform throughout the State, and which shall not be diminished during the time for which they were elected.

SEC. 26. If a vacancy shall occur in the office of judge of the circuit court, the governor shall issue a writ of election to fill such vacancy for the residue of the term: *Provided*, That if the unexpired term be less than one year, the governor shall appoint a judge to fill such vacancy.

SEC. 27. The judicial districts of this State shall not be changed, except at the first session after an enumeration, unless when a new district may be established.

SEC. 28. The general assembly shall provide by law for holding circuit courts when, from any cause, the judge shall fail to attend, or, if in attendance, cannot properly preside.

CONCERNING COUNTY COURTS.

SEC. 29. A county court shall be established in each county now existing, or which may hereafter be erected within this commonwealth, to consist of a presiding judge and two associate judges, any two of whom shall constitute a court for the transaction of business: *Provided*, The general assembly may at any time abolish the office of the associate judges, whenever it shall be deemed expedient; in which event they may associate with said court any or all of the justices of the peace for the transaction of business.

SEC. 30. The judges of the county court shall be elected, by the qualified voters in each county, for the term of four years, and shall continue in office until their successors be duly qualified, and shall receive such compensation for their services as may be provided by law.

SEC. 31. The first election of county-court judges shall take place at the same time of the election of judges of the circuit court. The presiding judge, first elected, shall hold his office until the first Monday in August, 1854. The associate judges shall hold their offices until the first Monday in August, 1852, and until their successors be qualified; and afterwards elections shall be held on the first Monday in August, in the years in which vacancies regularly occur.

SEC. 32. No person shall be eligible to the office of presiding or associate judge of the county court, unless he be a citizen of the United States, over twenty-one years of age, and shall have been a resident of the county in which he shall be chosen one year next preceding the election.

SEC. 33. The jurisdiction of the county court shall be regulated by law; and, until changed, shall be the same now vested in the county courts of this State.

SEC. 34. Each county in this State shall be laid off into districts of convenient size, as the general assembly may from time to time direct. Two justices of the peace shall be elected in each district, by the qualified voters therein, at such time and place as may be prescribed by law, for the term of four years, whose jurisdiction shall be co-extensive with the county. No person shall be eligible as a justice of the peace unless he be a citizen of the United States, twenty-one years of age, and a resident of the district in which he may be candidate.

SEC. 35. Judges of the county court, and justices of the peace, shall be conservators of the peace. They shall be commissioned by the governor. County and district officers shall vacate their offices by removal from the district or county in which they shall be appointed. The general assembly shall provide by law the manner of conducting and making due return of all elections of judges of the county court and justices of the peace, and for determining contested elections, and provide the mode of filling vacancies in these offices.

SEC. 36. Judges of the county court and justices of the peace, sheriffs, coroners, surveyors, jailers, county assessor, attorney for the county, and constables shall be subject to indictment or presentment for malfeasance or misfeasance in office, or wilful neglect in the discharge of their official duties, in such mode as may be prescribed by law, subject to appeal to the court of appeals; and, upon conviction, their offices shall become vacant.

SEC. 37. The general assembly may provide by law that the justices of the peace in each county shall sit at the court of claims, and assist in laying the county levy and making appropriations only.

SEC. 38. When any city or town shall have a separate representation, such city or town, and the county in which it is located, may have such separate municipal courts and executive and ministerial officers as the general assembly may, from time to time, provide.

SEC. 39. The clerks of the court of appeals, circuit and county courts, shall be removable from office by the court of appeals, upon information and good cause shown. The court shall be judges of the fact as well as the law. Two-thirds of the members present must concur in the sentence.

SEC. 40. The Louisville chancery court shall exist under this constitution, subject to repeal, and its jurisdiction to enlargement and modification by the general assembly. The chancellor shall have the same qualifications as a circuit-court judge, and the clerk of said court as a clerk of a circuit court, and the marshal of said court as a sheriff; and the general assembly shall provide for the election, by the qualified voters within its jurisdiction, of the chancellor, clerk, and marshal of said court, at the same time that the judge and clerk of the circuit court are elected for the county of Jefferson, and they shall hold their offices for the same time, and shall be removable in the same manner: *Provided*, That the marshal of said court shall be ineligible for the succeeding term.

SEC. 41. The city court of Louisville, the Lexington city court, and all other police-courts established in any city or town, shall remain, until otherwise directed by law, with their present powers and jurisdictions; and the judges, clerks, and marshals of such courts shall have the same qualifications, and shall be elected by the qualified voters of such cities or towns at the same time, and in the same manner, and hold their offices for the same term, as county judges, clerks, and sheriffs, respectively, and shall be liable to removal in the same manner. The general assembly may vest judicial powers, for police purposes, in mayors of cities, police judges, and trustees of towns.

ARTICLE V.

CONCERNING IMPEACHMENTS.

SECTION 1. The house of representatives shall have the sole power of impeachment.

SEC. 2. All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 3. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this commonwealth; but the party convicted shall, nevertheless, be subject and liable to indictment, trial, and punishment by law.

ARTICLE VI.

CONCERNING EXECUTIVE AND MINISTERIAL OFFICERS FOR COUNTIES AND DISTRICTS.

SECTION 1. A commonwealth's attorney for each judicial district, and a circuit-court clerk for each county, shall be elected, whose term of office shall be the same as that of the circuit judges; also, a county-court clerk, an attorney, surveyor, coroner, and

jailer, for each county, whose term of office shall be the same as that of the presiding judge of the county court.

SEC. 2. No person shall be eligible to the offices mentioned in this article who is not at the time twenty-four years old, (except clerks of county and circuit courts, sheriffs, constables, and county attorneys, who shall be eligible at the age of twenty-one years,) a citizen of the United States, and who has not resided two years next preceding the election in the State, and one year in the county or district for which he is a candidate. No person shall be eligible to the office of commonwealth's or county attorney unless he shall have been a licensed practising attorney for two years. No person shall be eligible to the office of clerk unless he shall have procured from a judge of the court of appeals, or a judge of the circuit court, a certificate that he has been examined by the clerk of his court, under his supervision, and that he is qualified for the office for which he is a candidate.

SEC. 3. The commonwealth's attorney and circuit-court clerk shall be elected at the same time as the circuit judge—the commonwealth's attorney by the qualified voters of the district, the circuit-court clerk by the qualified voters of the county. The county attorney, clerk, surveyor, coroner, and jailer shall be elected at the same time and in the same manner as the presiding judge of the county court.

SEC. 4. A sheriff shall be elected in each county by the qualified voters thereof, whose term of office shall, after the first term, be two years, and until his successor be qualified; and he shall be reëligible for a second term; but no sheriff shall, after the expiration of the second term, be reëligible, or act as deputy, for the succeeding term. The first election of sheriff shall be on the second Monday in May, 1851; and the sheriffs then elected shall hold their offices until the first Monday in January, 1853, and until their successors be qualified; and on the first Monday in August, 1852, and on the first Monday of August in every second year thereafter, elections for sheriffs shall be held: *Provided*, That the sheriffs first elected shall enter upon the duties of their respective offices on the first Monday in June, 1851, and after the first election on the first Monday in January next succeeding their election.

SEC. 5. A constable shall be elected in every justice's district, who shall be chosen for two years, at such time and place as may be provided by law, whose jurisdiction shall be coextensive with the county in which he may reside.

SEC. 6. Officers for towns and cities shall be elected for such terms, and in such manner, and with such qualifications as may be prescribed by law.

SEC. 7. Vacancies in offices under this article shall be filled, until the next regular election, in such manner as the general assembly may provide.

SEC. 8. When a new county shall be erected, officers for the same, to serve until the next stated election, shall be elected or appointed in such a way and at such times as the general assembly may prescribe.

SEC. 9. Clerks, sheriffs, surveyors, coroners, constables, and jailers, and such other officers as the general assembly may from time to time require, shall, before they enter upon the duties of their respective offices, and as often thereafter as may be deemed proper, give such bond and security as shall be prescribed by law.

SEC. 10. The general assembly may provide for the election or appointment, for a term not exceeding four years, of such other county or district ministerial and executive officers as shall, from time to time, be necessary and proper.

SEC. 11. A county assessor shall be elected in each county at the same time and for the same term that the presiding judge of the county court is elected, until otherwise provided for by law. He shall have power to appoint such assistants as may be necessary and proper.

ARTICLE VII.

CONCERNING THE MILITIA.

SECTION 1. The militia of this commonwealth shall consist of all free, able-bodied male persons (negroes, mulattoes, and Indians excepted) resident in the same, between the ages of eighteen and forty-five years; except such persons as now are, or hereafter may be, exempted by the laws of the United States or of this State; but those

who belong to religious societies, whose tenets forbid them to carry arms, shall not be compelled to do so, but shall pay an equivalent for personal services.

SEC. 2. The governor shall appoint the adjutant-general and his other staff-officers; the major-generals, brigadier-generals, and commandants of regiments shall respectively appoint their staff-officers; and commandants of companies shall appoint their non-commissioned officers.

SEC. 3. All militia officers, whose appointment is not herein otherwise provided for, shall be elected by persons subject to military duty within their respective companies, battalions, regiments, brigades, and divisions, under such rules and regulations, and for such terms, not exceeding six years, as the general assembly may, from time to time, direct and establish.

ARTICLE VIII.

GENERAL PROVISIONS.

SECTION 1. Members of the general assembly, and all officers, before they enter upon the execution of the duties of their respective offices, and all members of the bar, before they enter upon the practice of their profession, shall take the following oath or affirmation: "I do solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United States and the constitution of this State, and be faithful and true to the commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my abilities, the office of ———, according to law; and I do further solemnly swear [or affirm] that since the adoption of the present constitution I, being a citizen of this State, have not fought a duel, with deadly weapons, within this State, nor out of it, with a citizen of this State, nor have I sent or accepted a challenge to fight a duel, with deadly weapons, with a citizen of this State; nor have I acted as second in carrying a challenge, or aided or assisted any person thus offending: So help me God."

SEC. 2. Treason against the commonwealth shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 3. Every person shall be disqualified from holding any office of trust or profit for the term for which he shall have been elected, who shall be convicted of having given or offered any bribe or treat to procure his election.

SEC. 4. Laws shall be made to exclude from office and from suffrage those who shall thereafter be convicted of bribery, perjury, forgery, or other crimes or high misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practices.

SEC. 5. No money shall be drawn from the treasury but in pursuance of appropriations made by law, nor shall any appropriations of money for the support of an army be made for a longer time than two years, and a regular statement and account of the receipts and expenditures of all public money shall be published annually.

SEC. 6. The general assembly may direct, by law, in what manner, and in what courts, suits may be brought against the commonwealth.

SEC. 7. The manner of administering an oath or affirmation shall be such as is most consistent with the conscience of the deponent, and shall be esteemed by the general assembly the most solemn appeal to God.

SEC. 8. All laws which, on the first day of June, one thousand seven hundred and ninety-two, were in force in the State of Virginia, and which are of a general nature, and not local to that State, and not repugnant to this constitution, nor to the laws which have been enacted by the general assembly of this commonwealth, shall be in force within this State, until they shall be altered or repealed by the general assembly.

SEC. 9. The compact with the State of Virginia, subject to such alterations as may be made therein agreeably to the mode prescribed by the said compact, shall be considered as part of this constitution.



SEC. 10. It shall be the duty of the general assembly to pass such laws as shall be necessary and proper to decide differences by arbitrators, to be appointed by the parties who may choose that summary mode of adjustment.

SEC. 11. All civil officers for the commonwealth at large shall reside within the State, and all district, county, or town officers, within their respective districts, counties, or towns, (trustees of towns excepted,) and shall keep their offices at such places therein as may be required by law; and all militia officers shall reside in the bounds of the division, brigade, regiment, battalion, or company to which they may severally belong.

SEC. 12. Absence on the business of this State, or the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under this commonwealth, under the exception contained in this constitution.

SEC. 13. It shall be the duty of the general assembly to regulate, by law, in what cases, and what deductions from the salaries of public officers shall be made, for neglect of duty in their official capacity.

SEC. 14. Returns of all elections by the people shall be made to the secretary of state, for the time being, except in those cases otherwise provided for in this constitution, or which shall be otherwise directed by law.

SEC. 15. In all elections by the people, and also by the senate and house of representatives, jointly or separately, the votes shall be personally and publicly given *viva voce: Provided*, That dumb persons, entitled to suffrage, may vote by ballot.

SEC. 16. All elections by the people shall be held between the hours of six o'clock in the morning and seven o'clock in the evening.

SEC. 17. The general assembly shall, by law, prescribe the time when the several officers authorized or directed by this constitution to be elected or appointed shall enter upon the duties of their respective offices, except where the time is fixed by this constitution.

SEC. 18. No member of Congress, nor person holding or exercising any office of trust or profit under the United States, or either of them, or under any foreign power, shall be eligible as a member of the general assembly of this commonwealth, or hold or exercise any office of trust or profit under the same.

SEC. 19. The general assembly shall direct by law how persons who now are, or who may hereafter become, securities for public officers may be relieved or discharged on account of such securityship.

SEC. 20. Any person who shall, after the adoption of this constitution, either directly or indirectly, give, accept, or knowingly carry a challenge to any person or persons to fight in single combat, with a citizen of this State, with any deadly weapon, either in or out of the State, shall be deprived of the right to hold any office of honor or profit in this commonwealth, and shall be punished otherwise in such manner as the general assembly may prescribe by law.

SEC. 21. The governor shall have power, after five years from the time of the offence, to pardon all persons who shall have in anywise participated in a duel, either as principals, seconds, or otherwise, and to restore him or them to all the rights, privileges, and immunities to which he or they were entitled before such participation. And upon the presentation of such pardon, the oath prescribed in the first section of this article shall be varied to suit the case.

SEC. 22. At its first session after the adoption of this constitution the general assembly shall appoint not more than three persons, learned in the law, whose duty it shall be to revise and arrange the statute laws of this commonwealth, both civil and criminal, so as to have but one law on any one subject; and also three other persons, learned in the law, whose duty it shall be to prepare a code of practice for the courts, both civil and criminal, in this commonwealth, by abridging and simplifying the rules of practice and laws in relation thereto; all of whom shall, at as early a day as practicable, report the result of their labors to the general assembly for their adoption or modification.

SEC. 23. So long as the board of internal improvement shall be continued, the president thereof shall be elected by the qualified voters of this commonwealth, and hold

the office for the term of four years, and until another be duly elected and qualified. The election shall be held at the same time, and be conducted in the same manner, as the election of governor of this commonwealth under this constitution; but nothing herein contained shall prevent the general assembly from abolishing said board of internal improvement, or the office of president thereof.

SEC. 24. The general assembly shall provide, by law, for the trial of any contested election of auditor, register, treasurer, attorney-general, judges of circuit courts, and all other officers not otherwise herein specified.

SEC. 25. The general assembly shall provide by law for the making of the returns, by the proper officers, of the election of all officers to be elected under this constitution; and the governor shall issue commissions to the auditor, register, treasurer, president of the board of internal improvement, superintendent of public instruction, and such other officers as he may be directed by law to commission, as soon as he has ascertained the result of the election of those officers respectively.

SEC. 26. When a vacancy shall happen in the office of attorney-general, auditor of public accounts, treasurer, register of the land-office, president of the board of internal improvement, or superintendent of public instruction, the governor, in the recess of the senate, shall have power to fill the vacancy, by granting commissions which shall expire at the end of the next session, and shall fill the vacancy for the balance of the time by and with the advice and consent of the senate.

ARTICLE IX.

CONCERNING THE SEAT OF GOVERNMENT.

The seat of government shall continue in the city of Frankfort until it shall be removed by law: *Provided, however,* That two-thirds of all the members elected to each house of the general assembly shall concur in the passage of such law.

ARTICLE X.

CONCERNING SLAVES.

SECTION 1. The general assembly shall have no power to pass laws for the emancipation of slaves without the consent of their owners, or without paying their owners, previous to such emancipation, a full equivalent in money for the slaves so emancipated, and providing for their removal from the State. They shall have no power to prevent immigrants to this State from bringing with them such persons as are deemed slaves by the laws of any of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State. They shall pass laws to permit owners of slaves to emancipate them, saving the rights of creditors, and to prevent them from remaining in this State after they are emancipated. They shall have full power to prevent slaves being brought into this State as merchandise. They shall have full power to prevent slaves being brought into this State who have been, since the first day of January, one thousand seven hundred and eighty-nine, or may hereafter be, imported into any of the United States from a foreign country. And they shall have full power to pass such laws as may be necessary to oblige the owners of slaves to treat them with humanity; to provide for them necessary clothing and provisions; to abstain from all injuries to them, extending to life or limb; and in case of their neglect or refusal to comply with the directions of such laws, to have such slave or slaves sold for the benefit of their owner or owners.

SEC. 2. The general assembly shall pass laws providing that any free negro or mulatto hereafter immigrating to, and any slave hereafter emancipated in, and refusing to leave this State, or having left, shall return and settle within this State, shall be deemed guilty of felony, and punished by confinement in the penitentiary thereof.

SEC. 3. In the prosecution of slaves for felony, no inquest by a grand jury shall be necessary; but the proceedings in such prosecutions shall be regulated by law, except that the general assembly shall have no power to deprive them of the privilege of an impartial trial by a petit jury.

ARTICLE XI.

CONCERNING EDUCATION.

SECTION 1. The capital of the fund called and known as the "common-school fund," consisting of one million two hundred and twenty-five thousand seven hundred and sixty-eight dollars and forty-two cents, for which bonds have been executed by the State to the board of education, and seventy-three thousand five hundred dollars of stock in the Bank of Kentucky; also, the sum of fifty-one thousand two hundred and twenty-three dollars and twenty-nine cents, balance of interest on the school-fund of the year 1848, unexpended, together with any sum which may be hereafter raised in the State by taxation, or otherwise, for purposes of education, shall be held inviolate, for the purpose of sustaining a system of common schools. The interest and dividends of said funds, together with any sum which may be produced for that purpose, by taxation or otherwise, may be appropriated in aid of common schools, but for no other purpose. The general assembly shall invest said fifty-one thousand two hundred and twenty-three dollars and twenty-nine cents in some safe and profitable manner; and any portion of the interest and dividends of said school-fund, or other money or property raised for school purposes, which may not be needed in sustaining common schools, shall be invested in like manner. The general assembly shall make provision, by law, for the payment of the interest of said school-fund: *Provided*, That each county shall be entitled to its proportion of the income of said fund, and if not called for for common-school purposes, it shall be reinvested from time to time for the benefit of such county.

SEC. 2. A superintendent of public instruction shall be elected by the qualified voters of this commonwealth at the same time the governor is elected, who shall hold his office for four years, and his duties and salary shall be prescribed and fixed by law.

ARTICLE XII.

MODE OF REVISING THE CONSTITUTION.

SECTION 1. When experience shall point out the necessity of amending this constitution, and when a majority of all the members elected to each house of the general assembly shall, within the first twenty days of any regular session, concur in passing a law for taking the sense of the good people of this commonwealth as to the necessity and expediency of calling a convention, it shall be the duty of the several sheriffs and other officers of elections, at the next general election which shall be held for representatives to the general assembly after the passage of such law, to open a poll for, and make return to the secretary of state, for the time being, of the names of all those entitled to vote for representatives who have voted for calling a convention; and if, thereupon, it shall appear that a majority of all the citizens of this State entitled to vote for representatives have voted for calling a convention, the general assembly shall, at their next regular session, direct that a similar poll shall be opened and return made for the next election for representatives; and if, thereupon, it shall appear that a majority of all the citizens of this State entitled to vote for representatives have voted for calling a convention, the general assembly shall, at their next session, pass a law calling a convention, to consist of as many members as there shall be in the house of representatives, and no more, to be chosen on the first Monday in August thereafter, in the same manner and proportion, and at the same places, and possessed of the same qualifications of a qualified elector, by citizens entitled to vote for representatives, and to meet within three months after their election, for the purpose of readopting, amending, or changing this constitution; but if it shall appear by the vote of either year, as aforesaid, that a majority of all the citizens entitled to vote for representatives did not vote for calling a convention, a convention shall not then be called. And for the purpose of ascertaining whether a majority of the citizens, entitled to vote for representatives, did or did not vote for calling a convention, as above, the general assembly passing the law author-

izing such vote shall provide for ascertaining the number of citizens entitled to vote for representatives within the State.

SEC. 2. The convention, when assembled, shall judge of the election of its members and decide contested elections, but the general assembly shall, in calling a convention, provide for taking testimony in such cases and for issuing a writ of election in case of a tie.

ARTICLE XIII.

BILL OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare—

SECTION 1. That all freemen, when they form a social compact, are equal, and that no man or set of men are entitled to exclusive, separate public emoluments or privileges from the community, but in consideration of public services.

SEC. 2. That absolute, arbitrary power over the lives, liberty, and property of freemen exists nowhere in a republic, not even in the largest majority.

SEC. 3. The right of property is before and higher than any constitutional sanction; and the right of the owner of a slave to such slave, and its increase, is the same, and as inviolable as the right of the owner of any property whatever.

SEC. 4. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, happiness, security, and the protection of property. For the advancement of these ends, they have at all times an inalienable and indefeasible right to alter, reform, or abolish their government, in such manner as they may think proper.

SEC. 5. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; that no human authority ought, in any case whatever, to control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious societies or modes of worship.

SEC. 6. That the civil rights, privileges, or capacities of any citizen shall in no wise be diminished or enlarged on account of his religion.

SEC. 7. That all elections shall be free and equal.

SEC. 8. That the ancient mode of trial by jury shall be held sacred, and the right thereof remain inviolate, subject to such modifications as may be authorized by this constitution.

SEC. 9. That printing-presses shall be free to every person who undertakes to examine the proceedings of the general assembly, or any branch of government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

SEC. 10. In prosecutions for the publication of papers investigating the official conduct of officers or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

SEC. 11. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures and searches, and that no warrant to search any place, or to seize any person or thing, shall issue, without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 12. That in all criminal prosecutions, the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; that he cannot be compelled to give evidence

against himself; nor can he be deprived of his life, liberty, or property unless by the judgment of his peers or the law of the land.

SEC. 13. That no person shall, for any indictable offence, be proceeded against criminally, by information, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger, or by leave of the court, for oppression or misdemeanor in office.

SEC. 14. No person shall, for the same offence, be twice put in jeopardy of his life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives, and without just compensation being previously made to him.

SEC. 15. That all courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by the due course of law, and right and justice administered without sale, denial, or delay.

SEC. 16. That no power of suspending laws shall be exercised, unless by the general assembly, or its authority.

SEC. 17. That excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 18. That all prisoners shall be bailable by sufficient securities, unless for capital offences, when the proof is evident or presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SEC. 19. That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

SEC. 20. That no *ex post facto* law, nor any law impairing contracts, shall be made.

SEC. 21. That no person shall be attainted of treason or felony by the general assembly.

SEC. 22. That no attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the commonwealth.

SEC. 23. That the estates of such persons as shall destroy their own lives shall descend or vest as in case of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

SEC. 24. That the citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

SEC. 25. That the rights of the citizens to bear arms in defence of themselves and the State shall not be questioned; but the general assembly may pass laws to prevent persons from carrying concealed arms.

SEC. 26. That no standing army shall, in time of peace, be kept up, without the consent of the general assembly; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

SEC. 27. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

SEC. 28. That the general assembly shall not grant any title of nobility, or hereditary distinction, nor create any office, the appointment to which shall be for a longer time than for a term of years.

SEC. 29. That emigration from the State shall not be prohibited.

SEC. 30. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate, and that all laws contrary thereto, or contrary to this constitution, shall be void.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments made in the constitution of this commonwealth, and in order to carry the same into complete operation, it is hereby declared and ordained:

SECTION 1. That all the laws of this commonwealth, in force at the time of the adoption of this constitution, and not inconsistent therewith, and all rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies-corporate, shall continue as if this constitution had not been adopted.

SEC. 2. The oaths of office herein directed to be taken may be administered by any judge or justice of the peace, until the general assembly shall otherwise direct.

SEC. 3. No office shall be superseded by the adoption of this constitution, but the laws of the State relative to the duties of the several officers, legislative, executive, judicial, and military, shall remain in full force, though the same be contrary to this constitution, and the several duties shall be performed by the respective officers of the State, according to the existing laws, until the organization of the government, as provided for under this constitution, and the entering into office of the officers to be elected or appointed under said government, and no longer.

SEC. 4. It shall be the duty of the general assembly which shall convene in the year 1850 to make an apportionment of the representation of this State, upon the principle set forth in this constitution; and until the first apportionment shall be made as herein directed, the apportionment of senators and representatives among the several districts and counties in this State shall remain as at present fixed by law: *Provided*, That on the first Monday in August, 1850, all senators shall go out of office, and on that day an election for senators and representatives shall be held throughout the State, and those then elected shall hold their offices for one year, and no longer: *Provided further*, That at the elections to be held in the year 1850, that provision in this constitution which requires voters to vote in the precinct within which they reside shall not apply.

SEC. 5. All recognizances heretofore taken, or which may be taken before the organization of the judicial department under this constitution, shall remain as valid as though this constitution had not been adopted, and may be prosecuted in the name of the commonwealth. All criminal prosecutions and penal actions which have arisen or may arise before the reorganization of the judicial department under this constitution, may be prosecuted to judgment and execution in the name of the commonwealth.

We, the representatives of the freemen of Kentucky, in convention assembled, in their name, and by the authority of the commonwealth of Kentucky, and in virtue ot the powers vested in us, as delegates from the counties respectively affixed to our names, do ordain and proclaim the foregoing to be the constitution of the commonwealth of Kentucky from and after this day.

Done at Frankfort this eleventh day of June, in the year of our Lord one thousand eight hundred and fifty, and in the fifty-ninth year of the commonwealth.

JAMES GUTHRIE, *President.*

THO. S. HELM, *Secretary.*
THO. D. TILFORD, *Assistant Secretary.*

LOUISIANA.*

TREATY CEDING LOUISIANA—1803.†

The President of the United States of America, and the First Consul of the French Republic, desiring to remove all source of misunderstanding, relative to objects of discussion mentioned in the second and fifth articles of the Convention of (the 8th Vendemiaire, an 9,) September 30, 1800, relative to the rights claimed by the United States, in virtue of the Treaty concluded at Madrid, the 27th October, 1795, between His Catholic Majesty and the said United States, and willing to strengthen the union and friendship, which at the time of the said Convention was happily re-established between the two nations, have respectively named their Plenipotentiaries, to wit: The President of the United States of America, by and with the advice and consent of the Senate of the said States, Robert R. Livingston, Minister Plenipotentiary of the United States, and James Monroe, Minister Plenipotentiary and Envoy Extraordinary of the said States, near the Government of the French Republic; and the First Consul, in the name of the French people, the French citizen Barbe Marbois, Minister of the Public Treasury, who, after having respectively exchanged their full powers, have agreed to the following articles:

ART. 1. Whereas, by the article the third of the Treaty concluded at St. Ildefonso, (the 9th Vendemiaire, an 9,) October 1, 1800, between the First Consul of the French Republic and His Catholic Majesty, it was agreed as follows: His Catholic Majesty promises and engages on his part to cede to the French Republic, six months after the full and entire execution of the conditions and stipulations herein, relative to his Royal Highness the Duke of Parma, the Colony or Province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it; and such as it should be after the treaties subsequently entered into between Spain and other States; and whereas, in pursuance of the Treaty, particularly of the third article, the French Republic has an incontestable title to the domain and to the possession of the said territory, the First Consul of the French Republic, desiring to give to the United States a strong proof of friendship, doth hereby cede to the said United States, in the name of the French Republic, for ever

* The Lower Mississippi Valley, over which France exercised sovereignty by right of discovery in 1673, was called "The Province of Louisiana," of which New Orleans was the capital, and was governed by officials sent from Paris, without any charter. Louis XIV granted a monopoly of trade and commerce for the term of fifteen years to Anthony Crozart, September 14, 1712, but it was surrendered in less than two years. A similar grant was made to the "Company of the West," subsequently the "Company of the Indies," controlled by John Law, September 6, 1717, which was surrendered in 1730. France ceded that portion of the province of Louisiana lying east of the Mississippi River, and the city of New Orleans, to Spain, November 3, 1762, although Spanish rule was not asserted until August 18, 1789. It was retroceded to France by the treaty of San Ildefonso October 1, 1800, which was confirmed by the treaty of Madrid, March 21, 1801.

† This treaty was laid before the Congress of the United States by President Jefferson, at a session which he had called for the 17th of October, 1803. After stating in a message the negotiations which had resulted in the purchase of the sovereignty of Louisiana, he said, "Whilst the property and sovereignty of the Mississippi and its waters secure an independent outlet for the produce of the Western States, and an uncontrolled navigation through their whole course, free from collision with other powers and the dangers to our peace from that source, the fertility of the country, its climate and extent, promise in due season important aids to our Treasury, an ample provision for our posterity, and a wide spread for the blessings of freedom and equal laws."

and in full sovereignty, the said territory, with all its rights and appurtenances, as fully and in the same manner as they might have been acquired by the French Republic, in virtue of the above-mentioned treaty, concluded with His Catholic Majesty.

ART. 2. In the cession made by the preceding article, are included the adjacent islands belonging to Louisiana, all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices, which are not private property. The archives, papers, and documents, relative to the domain and sovereignty of Louisiana and its dependencies, will be left in the possession of the Commissaries of the United States, and copies will be afterwards given in due form to the magistrates and municipal officers, of such of the said papers and documents as may be necessary to them.

ART. 3. The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities, of citizens of the United States; and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess.

ART. 4. There shall be sent by the Government of France a Commissary to Louisiana, to the end that he do every act necessary, as well to receive from the officers of His Catholic Majesty the said country and its dependencies in the name of the French Republic, if it has not been already done, as to transmit it, in the name of the French Republic, to the Commissary or agent of the United States.

ART. 5. Immediately after the ratification of the present treaty by the President of the United States, and in case that of the First Consul shall have been previously obtained, the Commissary of the French Republic shall remit all the military posts of New Orleans, and other parts of the ceded territory, to the Commissary or Commissaries named by the President to take possession; the troops, whether of France or Spain, who may be there, shall cease to occupy any military post from the time of taking possession, and shall be embarked as soon as possible in the course of three months after the ratification of this treaty.

ART. 6. The United States promise to execute such treaties and articles as may have been agreed between Spain and the tribes and nations of Indians, until, by mutual consent of the United States and the said tribes or nations, other suitable articles shall have been agreed upon.

ART. 7. As it is reciprocally advantageous to the commerce of France and the United States, to encourage the communication of both nations, for a limited time, in the country ceded by the present treaty, until general arrangements relative to the commerce of both nations may be agreed on, it has been agreed between the contracting parties, that the French ships coming directly from France or any of her Colonies, loaded only with the produce or manufactures of France or her said Colonies, and the ships of Spain coming directly from Spain or any of her Colonies, loaded only with the produce or manufactures of Spain or her Colonies, shall be admitted during the space of twelve years in the port of New Orleans, and in all other legal ports of entry within the ceded territory, in the same manner as the ships of the United States coming directly from France or Spain, or any of their Colonies, without being subject to any other or greater duty on the merchandise, or other or greater tonnage than those paid by the citizens of the United States.

During the space of time above mentioned, no other nation shall have a right to the same privileges in the ports of the ceded territory. The twelve years shall commence three months after the exchange of ratifications, if it shall take place in France, or three months after it shall have been notified at Paris to the French Government, if it shall take place in the United States; it is, however, well understood, that the object of the above article is to favor the manufactures, commerce, freight, and navigation of France and Spain, so far as relates to the importations that the French and Spanish shall make into the said ports of the United States, without in any sort affecting the regulations that the United States may make concerning the exporta-

tion of the produce and merchandise of the United States, or any right they may have to make such regulations.

ART. 8. In future and forever, after the expiration of the twelve years, the ships of France shall be treated upon the footing of the most favored nations in the ports above mentioned.

ART. 9. The particular convention signed this day by the respective Ministers, having for its object to provide the payment of debts due to the citizens of the United States by the French Republic, prior to the 30th of September, 1800, (8th Vendemiaire, an 9,) is approved, and to have its execution in the same manner as if it had been inserted in the present treaty; and it shall be ratified in the same form and in the same time, so that the one shall not be ratified distinct from the other. Another particular convention, signed at the same date as the present treaty, relative to a definitive rule between the contracting parties is, in the like manner, approved, and will be ratified in the same form and in the same time, and jointly.

ART. 10. The present treaty shall be ratified in good and due form, and the ratification shall be exchanged in the space of six months after the date of the signature by the Ministers Plenipotentiary, or sooner if possible.

In faith whereof, the respective Plenipotentiaries have signed these articles in the French and English languages, declaring, nevertheless, that the present treaty was originally agreed to in the French language, and have thereunto put their seals.

Done at Paris, the 10th day of Floreal, in the 11th year of the French Republic, and the 30th April, 1803.

R. R. LIVINGSTON.
JAMES MONROE.
BARBE MARBOIS.

A CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE FRENCH REPUBLIC.

The President of the United States of America, and the First Consul of the French Republic, in the name of the French people, in consequence of the Treaty of Cession of Louisiana, which has been signed this day, wishing to regulate definitively everything which has relation to the said cession, have authorized, to this effect, the Plenipotentiaries, that is to say: the President of the United States has, by and with the advice and consent of the Senate of the said States, nominated for their Plenipotentiaries, Robert R. Livingston, Minister Plenipotentiary of the United States, and James Monroe, Minister Plenipotentiary and Envoy Extraordinary of the said United States, near the Government of the French Republic; and the First Consul of the French Republic, in the name of the French people, has named, as Plenipotentiary of the said Republic, the French citizen Barbe Marbois, who, in virtue of their full powers, which have been exchanged this day, have agreed to the following articles:

ART. 1. The Government of the United States engages to pay to the French Government, in the manner specified in the following articles, the sum of sixty millions of francs, independent of the sum which shall be fixed by any other convention for the payment of the debts due by France to citizens of the United States.

ART. 2. For the payment of the sum of sixty millions of francs, mentioned in the preceding article, the United States shall create a stock of eleven million two hundred and fifty thousand dollars, bearing an interest of six per cent. per annum, payable, half-yearly, in London, Amsterdam, or Paris, amounting by the half-year to three hundred and thirty-seven thousand five hundred dollars, according to the proportions which shall be determined by the French Government, to be paid at either place: the principal of the said stock to be reimbursed at the Treasury of the United States, in annual payments of not less than three millions of dollars each; of which the first payment shall commence fifteen years after the date of the exchange of ratifications: this stock shall be transferred to the Government of France, or to such

person or persons as shall be authorized to receive it, in three months, at most, after the exchange of the ratifications of this treaty, and after Louisiana shall be taken possession of in the name of the Government of the United States.

It is further agreed that, if the French Government should be desirous of disposing of the said stock, to receive the capital in Europe at shorter terms, that its measures, for that purpose, shall be taken so as to favor, in the greatest degree possible, the credit of the United States, and to raise to the highest price the said stock.

ART. 3. It is agreed that the dollar of the United States, specified in the present convention, shall be fixed at five francs 3333-10000ths or five livres eight sous tournoise.

The present convention shall be ratified in good and true form, and the ratifications shall be exchanged in the space of six months, to date from this day, or sooner if possible.

In faith of which, the respective Plenipotentiaries have signed the above articles, both in the French and English languages, declaring, nevertheless, that the present treaty has been originally agreed on and written in the French language, to which they have hereunto affixed their seals.

Done at Paris, the tenth day of Floreal, eleventh year of the French Republic, (30th April, 1803.)

ROBERT R. LIVINGSTON.
JAMES MONROE.
BARBE MARBOIS.

ACT FOR TAKING POSSESSION OF LOUISIANA—1803.*

[EIGHTH CONGRESS, FIRST SESSION.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to take possession of and occupy the territories ceded by France to the United States, by the treaty concluded at Paris on the thirtieth day of April last, between the two nations, and that he may for that purpose, and in order to maintain in the said territories the authority of the United States, employ any part of the Army or Navy of the United States, and of the force authorized by an act passed the third day of March last, entitled "An act directing a detachment from the militia of the United States, and for erecting certain arsenals," which he may deem necessary; and so much of the sum appropriated by the said act as may be necessary, is hereby appropriated for the purpose of carrying this act into effect; to be applied under the direction of the President of the United States.

SEC. 2. *And be it further enacted*, That until the expiration of the present session of Congress, unless provision for the temporary government of the said territories be sooner made by Congress, all the military, civil, and judicial powers exercised by the officers of the existing government of the same, shall be vested in such person and persons, and shall be exercised in such manner as the President of the United States shall direct for maintaining and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property, and religion.

APPROVED, October 31, 1803.

* The treaty providing for the purchase of Louisiana by the United States was ratified at Washington October 21, 1803, and the commission appointed under it took formal possession December 20, 1803, when Governor Claiborne issued a proclamation declaring that the government previously exercised over the province by Spain and by France had ceased, and that of the United States was established over the same. An act of Congress creating six per cent. stock to the amount of eleven million two hundred and fifty thousand dollars, for the purpose of carrying out the agreement with France for the purchase of Louisiana, was approved November 30, 1803.

THE TERRITORIES OF LOUISIANA AND ORLEANS—1804.

[EIGHTH CONGRESS, FIRST SESSION.]

An Act erecting Louisiana into two Territories, and providing for the temporary government thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that portion of country ceded by France to the United States, under the name of Louisiana, which lies south of the Mississippi Territory, and of an east and west line, to commence on the Mississippi River, at the thirty-third degree of north latitude, and to extend west to the western boundary of the said cession, shall constitute a Territory of the United States, under the name of the Territory of Orleans; the government whereof shall be organized and administered as follows:

SEC. 2. The executive power shall be vested in a governor, who shall reside in the said Territory, and hold his office during the term of three years, unless sooner removed by the President of the United States. He shall be commander-in-chief of the militia of the said Territory, shall have power to grant pardons for offences against the said Territory, and reprieves for those against the United States, until the decision of the President of the United States thereon shall be made known; and to appoint and commission all officers, civil and of the militia, whose appointments are not herein otherwise provided for, and which shall be established by law. He shall take care that the laws be faithfully executed.

SEC. 3. A secretary of the Territory shall also be appointed, who shall hold his office during the term of four years, unless sooner removed by the President of the United States, whose duty it shall be, under the direction of the governor, to record and preserve all the papers and proceedings of the executive, and all the acts of the governor and legislative council, and transmit authentic copies of the proceedings of the governor in his executive department, every six months, to the President of the United States. In case of the vacancy of the office of governor, the government of the said Territory shall devolve on the secretary.

SEC. 4. The legislative powers shall be vested in the governor, and in thirteen of the most fit and discreet persons of the Territory, to be called the legislative council, who shall be appointed annually by the President of the United States from among those holding real estate therein, and who shall have resided one year at least in the said Territory, and hold no office of profit under the Territory or the United States. The governor, by and with advice and consent of the said legislative council, or of a majority of them, shall have power to alter, modify, or repeal the laws which may be in force at the commencement of this act. Their legislative powers shall also extend to all the rightful subjects of legislation; but no law shall be valid which is inconsistent with the Constitution and laws of the United States, or which shall lay any person under restraint, burden, or disability, on account of his religious opinions, professions, or worship; in all which he shall be free to maintain his own, and not burdened for those of another. The governor shall publish throughout the said Territory all the laws which shall be made, and shall from time to time report the same to the President of the United States to be laid before Congress; which, if disapproved of by Congress, shall thenceforth be of no force. The governor or legislative council shall have no power over the primary disposal of the soil, nor to tax the lands of the United States, nor to interfere with the claims to land within the said Territory. The governor shall convene and prorogue the legislative council whenever he may deem it expedient. It shall be his duty to obtain all the information in his power in relation to the customs, habits, and dispositions of the inhabitants of the said Territory, and communicate the same from time to time to the President of the United States.

SEC. 5. The judicial power shall be vested in a superior court, and in such inferior courts, and justices of the peace, as the legislature of the Territory may from time to time establish. The judges of the superior court and the justices of the peace

shall hold their offices for the term of four years. The superior court shall consist of three judges, any one of whom shall constitute a court; they shall have jurisdiction in all criminal cases, and exclusive jurisdiction in all those which are capital; and original and appellate jurisdiction in all civil cases of the value of one hundred dollars. Its sessions shall commence on the first Monday of every month, and continue till all the business depending before them shall be disposed of. They shall appoint their own clerk. In all criminal prosecutions which are capital, the trial shall be by a jury of twelve good and lawful men of the vicinage; and in all cases, criminal and civil, in the superior court, the trial shall be by a jury, if either of the parties require it. The inhabitants of the said Territory shall be entitled to the benefits of the writ of *habeas corpus;* they shall be bailable, unless for capital offences, where the proof shall be evident or the presumption great; and no cruel and unusual punishments shall be inflicted.

SEC. 6. The governor, secretary, judges, district attorney, marshal, and all general officers of the militia, shall be appointed by the President of the United States in the recess of the Senate; but shall be nominated at their next meeting for their advice and consent. The governor, secretary, judges, members of the legislative council, justices of the peace, and all other officers, civil and of the militia, before they enter upon the duties of their respective offices, shall take an oath or affirmation to support the Constitution of the United States, and for the faithful discharge of the duties of their office; the governor, before the President of the United States, or before a judge of the supreme or district court of the United States, or before such other person as the President of the United States shall authorize to administer the same; the secretary, judges, and members of the legislative council, before the governor; and all other officers before such persons as the governor shall direct. The governor shall receive an annual salary of five thousand dollars; the secretary, of two thousand dollars, and the judges, of two thousand dollars each; to be paid quarter-yearly out of the revenues of impost and tonnage, accruing within the said Territory. The members of the legislative council shall receive four dollars each per day during their attendance in council.

SEC. 7. *And be it further enacted,* That the following acts, that is to say:

An act for the punishment of certain crimes against the United States;

An act in addition to an act for the punishment of certain crimes against the United States;

An act to prevent citizens of the United States from privateering against nations in amity with or against citizens of the United States;

An act for the punishment of certain crimes therein specified;

An act respecting fugitives from justice and persons escaping from the service of their masters;

An act to prohibit the carrying on the slave-trade from the United States to any foreign place or country;

An act to prevent the importation of certain persons into certain States, where, by the laws thereof, their admission is prohibited;

An act to establish the post-office of the United States;

An act further to alter and establish certain post-roads, and for the more secure carriage of the mail of the United States;

An act for the more general promulgation of the laws of the United States;

An act in addition to an act entitled "An act for the more general promulgation of the laws of the United States;"

An act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose;

An act to extend the privilege of obtaining patents for useful discoveries and inventions to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patentees;

An act for the encouragement of learning, by securing the copies of maps, charts, and books to the authors and proprietors of such copies, during the time therein mentioned;

An act supplementary to an act entitled "An act for the encouragement of learning,

by securing the copies of maps, charts, and books to the authors and proprietors of such copies, during the times therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints;"

An act providing for salvage in cases of recapture;

An act respecting alien enemies;

An act to prescribe the mode in which the public acts, records, and judicial proceedings in each State shall be authenticated, so as to take effect in every other State;

An act for establishing trading-houses with the Indian tribes;

An act for continuing in force a law entitled "An act for establishing trading-houses with the Indian tribes;" and

An act making provision relative to rations for Indians, and to their visits to the seat of Government,

Shall extend to and have full force and effect in the above-mentioned Territories.

SEC. 8. There shall be established in the said Territory a district court, to consist of one judge, who shall reside therein, and be called the district judge, and who shall hold, in the city of Orleans, four sessions annually; the first to commence on the third Monday in October next, and the three other sessions, progressively, on the third Monday of every third calendar month thereafter. He shall in all things have and exercise the same jurisdiction and powers which are by law given to, or may be exercised by, the judge of Kentucky district; and shall be allowed an annual compensation of two thousand dollars, to be paid quarter-yearly out of the revenues of impost and tonnage accruing within the said Territory. He shall appoint a clerk for the said district, who shall reside and keep the records of the court, in the city of Orleans, and shall receive for the services performed by him the same fees to which the clerk of Kentucky district is entitled for similar services.

There shall be appointed in the said district a person learned in the law, to act as attorney for the United States, who shall, in addition to his stated fees, be paid six hundred dollars annually, as a full compensation for all extra services. There shall also be appointed a marshal for the said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees to which marshals in other districts are entitled for similar services; and shall moreover be paid two hundred dollars annually as a compensation for all extra services.

SEC. 9. All free male white persons who are house-keepers, and who shall have resided one year, at least, in the said Territory, shall be qualified to serve as grand or petit jurors in the courts of the said Territory, and they shall, until the legislature thereof shall otherwise direct, be selected in such manner as the judges of the said courts, respectively, shall prescribe, so as to be most conducive to an impartial trial, and to be least burdensome to the inhabitants of the said Territory.

SEC. 10. It shall not be lawful for any person or persons to import or bring into the said Territory, from any port or place without the limits of the United States, or cause or procure to be so imported or brought, or knowingly to aid or assist in importing or bringing any slave or slaves. And every person so offending, and being thereof convicted before any court within said Territory, having competent jurisdiction, shall forfeit and pay, for each and every slave so imported or brought, the sum of three hundred dollars; one moiety for the use of the United States, and the other moiety for the use of the person or persons who shall sue for the same; and every slave so imported or brought shall thereupon become entitled to and receive his or her freedom. It shall not be lawful for any person or persons to import or bring into the said Territory, from any port or place within the limits of the United States, or to cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing, any slave or slaves, which shall have been imported since the first day of May, one thousand seven hundred and ninety-eight, into any port or place within the limits of the United States, or which may hereafter be so imported from any port or place without the limits of the United States; and every person so offending and being thereof convicted before any court within said Territory, having competent jurisdiction, shall forfeit and pay for each and every slave, so imported or brought from without the United States, the sum of three hundred dollars, one moiety

for the use of the United States, and the other moiety for the use of the person or persons who shall sue for the same; and no slave or slaves shall directly or indirectly be introduced into said Territory, except by a citizen of the United States removing into said Territory for actual settlement, and being at the time of such removal *bona-fide* owner of such slave or slaves; and every slave imported or brought into the said Territory, contrary to the provisions of this act, shall thereupon be entitled to and receive his or her freedom.

SEC. 11. The laws in force in the said Territory at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force until altered, modified, or repealed by the legislature.

SEC. 12. The residue of the province of Louisiana, ceded to the United States, shall be called the District of Louisiana,* the government whereof shall be organized and administered as follows: The executive power now vested in the governor of the Indiana Territory shall extend to and be exercised in the said District of Louisiana. The governor and judges of the Indiana Territory shall have power to establish in the said District of Louisiana inferior courts, and prescribe their jurisdiction and duties, and to make all laws which they may deem conducive to the good government of the inhabitants thereof: *Provided, however,* That no law shall be valid which is inconsistent with the Constitution and laws of the United States, or which shall lay any person under restraint or disability on account of his religious opinions, profession, or worship; in all of which he shall be free to maintain his own, and not burdened for those of another: *And provided also,* That in all criminal prosecutions, the trial shall be by a jury of twelve good and lawful men of the vicinage, and in all civil cases of the value of one hundred dollars, the trial shall be by jury, if either of the parties require it. The judges of the Indiana Territory, or any two of them, shall hold annually two courts within the said district, at such place as will be most convenient to the inhabitants thereof in general, shall possess the same jurisdiction they now possess in the Indiana Territory, and shall continue in session until all the business depending before them shall be disposed of. It shall be the duty of the secretary of the Indiana Territory to record and preserve all the papers and proceedings of the governor, of an executive nature, relative to the District of Louisiana, and transmit authentic copies thereof every six months to the President of the United States. The governor shall publish throughout the said District all the laws which may be made as aforesaid, and shall, from time to time, report the same to the President of the United States, to be laid before Congress, which, if disapproved of by Congress, shall thenceforth cease and be of no effect.

The said District of Louisiana shall be divided into districts by the governor, under the direction of the President, as the convenience of the settlements shall require, subject to such alterations hereafter as experience may prove more convenient. The inhabitants of each district, between the ages of eighteen and forty-five, shall be formed into a militia, with proper officers, according to their numbers, to be appointed by the governor, except the commanding officer, who shall be appointed by the President, and who, whether a captain, a major, or a colonel, shall be the commanding officer of the district, and as such shall, under the governor, have command of the regular officers and troops in his district, as well as of the militia, for which he shall have a brevet commission, giving him such command, and the pay and emoluments of an officer of the same grade in the Regular Army; he shall be specially charged with the employment of the military and militia of his district, in cases of sudden invasion or insurrection, and until the orders of the governor can be received, and at all times with the duty of ordering a military patrol, aided by militia, if necessary, to arrest unauthorized settlers in any part of his district, and to commit such offenders to jail, to be dealt with according to law.

SEC. 13. The laws in force in the said District of Louisiana at the commencement of this act, and not inconsistent with any of the provisions thereof, shall continue in force until altered, modified, or repealed by the governor and judges of the Indiana Territory, as aforesaid.

* This was called the Territory of Louisiana in a supplementary act of Congress approved March 3, 1805. See page 625.

SEC. 14. *And be it further enacted*, That all grants for lands within the territories ceded by the French Republic to the United States, by the treaty of the thirtieth of April, in the year one thousand eight hundred and three, the title whereof was, at the date of the treaty of San Ildefonso, in the crown, government, or nation of Spain, and every act and proceeding subsequent thereto, of whatsoever nature, towards the obtaining any grant, title, or claim to such lands, and under whatsoever authority transacted, or pretended, be, and the same are hereby declared to be, and to have been from the beginning, null, void, and of no effect in law or equity: *Provided, nevertheless*, That anything in this section contained shall not be construed to make null and void any *bona-fide* grant, made agreeably to the laws, usages, and customs of the Spanish government, to an actual settler on the lands so granted, for himself and for his wife and family; or to make null and void any *bona-fide* act or proceeding done by an actual settler, agreeably to the laws, usages, and customs of the Spanish government, to obtain a grant for lands actually settled on by the person or persons claiming title thereto, if such settlement in either case was actually made prior to the twentieth day of December, one thousand eight hundred and three: *And provided further*, That such grant shall not secure to the grantee or his assigns more than one mile square of land, together with such other and further quantity as heretofore has been allowed for the wife and family of such actual settler, agreeably to the laws, usages, and customs of the Spanish government. And that if any citizen of the United States, or other person, shall make a settlement on any lands belonging to the United States, within the limits of Louisiana, or shall survey, or attempt to survey, such lands, or to designate boundaries by marking trees, or otherwise, such offender shall, on conviction thereof, in any court of record of the United States, or the Territories of the United States, forfeit a sum not exceeding one thousand dollars, and suffer imprisonment not exceeding twelve months; and it shall, moreover, be lawful for the President of the United States to employ such military force as he may judge necessary to remove from lands belonging to the United States any such citizen or other person who shall attempt a settlement thereon.

SEC. 15. The President of the United States is hereby authorized to stipulate with the Indian tribes owning lands on the east side of the Mississippi, and residing thereon, for an exchange of lands, the property of the United States, on the west side of the Mississippi, in case the said tribe shall remove and settle thereon; but in such stipulation, the said tribes shall acknowledge themselves to be under the protection of the United States, and shall agree that they will not hold any treaty with any foreign power, individual State, or with the individuals of any State or power; and that they will not sell or dispose of the said lands, or any part thereof, to any sovereign power, except to the United States, nor to the subjects or citizens of any other sovereign power, nor to the citizens of the United States. And, in order to maintain peace and tranquillity with the Indian tribes who reside within the limits of Louisiana, as ceded by France to the United States, the act of Congress, passed on the thirtieth of March, one thousand eight hundred and two, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," is hereby extended to the Territories erected and established by this act; and the sum of fifteen thousand dollars of any money in the Treasury not otherwise appropriated by law is hereby appropriated to enable the President of the United States to effect the object expressed in this section.

SEC. 16. The act passed on the thirty-first day of October, one thousand eight hundred and three, entitled "An act to enable the President of the United States to take possession of the territories ceded by France to the United States by the treaty concluded at Paris on the thirtieth day of April last, and for the temporary government thereof," shall continue in force until the first day of October next, anything therein to the contrary notwithstanding; on which said first day of October, this act shall commence and have full force, and shall continue in force for and during the term of one year, and to the end of the next session of Congress which may happen thereafter.

APPROVED, March 26, 1804.

THE TERRITORIAL GOVERNMENT OF ORLEANS—1805.

[EIGHTH CONGRESS, SECOND SESSION.]

An Act further providing for the territorial government of Orleans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to establish within the Territory of Orleans a government in all respects similar (except as is herein otherwise provided) to that now exercised in the Mississippi Territory; and shall, in the recess of the Senate, but to be nominated at their next meeting, for their advice and consent, appoint all the officers necessary therein, in conformity with the ordinance of Congress, made on the thirteenth day of July, one thousand seven hundred and eighty-seven; and that from and after the establishment of the said government, the inhabitants of the Territory of Orleans shall be entitled to and enjoy all the rights, privileges, and advantages secured by the said ordinance, and now enjoyed by the people of the Mississippi Territory.

SEC. 2. *And be it further enacted*, That so much of the said ordinance of Congress as relates to the organization of a general assembly, and prescribes the powers thereof, shall, from and after the fourth day of July next, be in force in the said Territory of Orleans; and in order to carry the same into operation, the governor of the said Territory shall cause to be elected twenty-five representatives, for which purpose he shall lay off the said Territory into convenient election-districts, on or before the first Monday of October next, and give due notice thereof throughout the same; and shall appoint the most convenient time and place within each of the said districts, for holding the elections; and shall nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who may have been duly elected. All subsequent elections shall be regulated by the legislature: and the number of representatives shall be determined, and the apportionment made, in the manner prescribed by the said ordinance.

SEC. 3. *And be it further enacted*, That the representatives to be chosen as aforesaid shall be convened by the governor, in the city of Orleans, on the first Monday in November next; and the first general assembly shall be convened by the governor as soon as may be convenient, at the city of Orleans, after the members of the legislative council shall be appointed and commissioned; and the general assembly shall meet, at least once in every year, and such meeting shall be on the first Monday in December, annually, unless they shall, by law, appoint a different day. Neither house, during the session, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two branches are sitting.

SEC. 4. *And be it further enacted*, That the laws in force in the said Territory at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force until altered, modified, or repealed by the legislature.

SEC. 5. *And be it further enacted*, That the second paragraph of the said ordinance, which regulates the descent and distribution of estates; and also the sixth article of compact which is annexed to and makes part of said ordinance, are hereby declared not to extend to but are excluded from all operation within the said Territory of Orleans.

SEC. 6. *And be it further enacted*, That the governor, secretary, and judges to be appointed by virtue of this act shall be severally allowed the same compensation which is now allowed to the governor, secretary, and judges of the Territory of Orleans. And all the additional officers authorized by this act shall respectively receive the same compensation for their services as are by law established for similar offices in the Mississippi Territory, to be paid quarter-yearly out of the revenues of impost and tonnage accruing within the said Territory of Orleans.

SEC. 7. *And be it further enacted*, That whenever it shall be ascertained by an actual census or enumeration of the inhabitants of the Territory of Orleans, taken by proper authority, that the number of free inhabitants included therein shall amount

to sixty thousand, they shall thereupon be authorized to form for themselves a constitution and State government, and be admitted into the Union upon the footing of the original States, in all respects whatever, conformably to the provisions of the third article of the treaty concluded at Paris on the thirteenth of April, one thousand eight hundred and three, between the United States and the French Republic: *Provided*, That the constitution so to be established shall be republican, and not inconsistent with the Constitution of the United States, nor inconsistent with the ordinance of the late Congress, passed the thirteenth day of July, one thousand seven hundred and eighty-seven, so far as the same is made applicable to the territorial government hereby authorized to be established: *Provided, however*, That Congress shall be at liberty, at any time prior to the admission of the inhabitants of the said Territory to the right of a separate State, to alter the boundaries thereof as they may judge proper: *Except only*, That no alteration shall be made which shall procrastinate the period for the admission of the inhabitants thereof to the rights of a State government according to the provision of this act.

SEC. 8. *And be it further enacted*, That so much of an act entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof," as is repugnant with this act, shall, from and after the first Monday of November next, be repealed. And the residue of the said act shall continue in full force until repealed, anything in the sixteenth section of the said act to the contrary notwithstanding.

APPROVED, March 2, 1805.

THE TERRITORY OF LOUISIANA—1805.*

[EIGHTH CONGRESS, SECOND SESSION.]

An Act to provide for the government of the Territory of Louisiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the country ceded by France to the United States, under the general name of Louisiana, which, by an act of the last session of Congress, was erected into a separate district, to be called the District of Louisiana, shall henceforth be known and designated by the name and title of the Territory of Louisiana, the government whereof shall be organized and administered as follows: The executive power shall be vested in a governor, who shall reside in said Territory, and hold his office during the term of three years, unless sooner removed by the President of the United States. He shall be commander-in-chief of the militia of the said Territory, superintendent *ex officio* of Indian affairs, and shall appoint and commission all officers in the same below the rank of general officers; shall have power to grant pardons for offences against the same, and reprieves for those against the United States until the decision of the President thereon shall be known.

SEC. 2. There shall be a secretary, whose commission shall continue in force for four years, unless sooner revoked by the President of the United States, who shall reside in the said Territory, and whose duty it shall be, under the direction of the governor, to record and preserve all the papers and proceedings of the executive and all the acts of the governor and of the legislative body, and transmit authentic copies of the same every six months to the President of the United States. In case of a vacancy of the office of governor, the government of the said Territory shall be exercised by the secretary.

* This was originally called the District of Louisiana, but no part of it is included in the present State of Louisiana, which was originally the Territory of Orleans.



SEC. 3. The legislative power shall be vested in the governor and in three judges, or a majority of them, who shall have power to establish inferior courts in the said Territory, and prescribe their jurisdiction and duties, and to make all laws which they may deem conducive to the good government of the inhabitants thereof: *Provided, however,* That no law shall be valid which is inconsistent with the Constitution and laws of the United States, or which shall lay any person under restraint or disability on account of his religious opinions, profession, or worship, in all of which he shall be free to maintain his own and not be burdened with those of another: *And provided also,* That in all criminal prosecutions the trial shall be by a jury of twelve good and lawful men of the vicinage, and in all civil cases of the value of one hundred dollars the trial shall be by jury, if either of the parties require it. And the governor shall publish throughout the said Territory all the laws which may be made as aforesaid, and shall, from time to time, report the same to the President of the United States, to be laid before Congress, which, if disapproved of by Congress, shall thenceforth cease and be of no effect.

SEC. 4. There shall be appointed three judges, who shall hold their offices for the term of four years, who, or any two of them, shall hold annually two courts within the said District, at such place as will be most convenient to the inhabitants thereof in general; shall possess the same jurisdiction which is possessed by the judges of the Indiana Territory, and shall continue in session until all the business depending before them shall be disposed of.

SEC. 5. *And be it further enacted,* That for the more convenient distribution of justice, the prevention of crimes and injuries, and execution of process, criminal and civil, the governor shall proceed, from time to time, as circumstances may require, to lay out those parts of the Territory in which the Indian title shall have been extinguished into districts, subject to such alterations as may be found necessary, and he shall appoint thereto such magistrates and other civil officers as he may deem necessary, whose several powers and authorities shall be regulated and defined by law.

SEC. 6. *And be it further enacted,* That the governor, secretary, and judges to be appointed by virtue of this act shall respectively receive the same compensations for their services as are by law established for similar offices in the Indiana Territory, to be paid quarter-yearly out of the Treasury of the United States.

SEC. 7. *And be it further enacted,* That the governor, secretary, judges, justices of the peace, and all other officers, civil or military, before they enter upon the duties of their respective offices, shall take an oath, or affirmation, to support the Constitution of the United States and for the faithful discharge of the duties of their office; the governor before the President of the United States, or before such other person as the President of the United States shall authorize to administer the same; the secretary and judges before the governor; and all other officers before such person as the governor shall direct.

SEC. 8. *And be it further enacted,* That the governor, secretary, and judges, to be appointed by virtue of this act, and all the additional officers authorized thereby, or by the act for erecting Louisiana into two Territories, and providing for the temporary government thereof, shall be appointed by the President of the United States in the recess of the Senate, but shall be nominated at their next meeting for their advice and consent.

SEC. 9. *And be it further enacted,* That the laws and regulations in force in the said District at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force until altered, modified, or repealed by the legislature.

SEC. 10. *And be it further enacted,* That so much of an act entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof," as is repugnant to this act, shall, from and after the fourth day of July next, be repealed; on which said fourth day of July this act shall commence and have full force.

APPROVED, March 3, 1805.

ENABLING ACT FOR LOUISIANA—1811.

[ELEVENTH CONGRESS, THIRD SESSION.]

An Act to enable the people of the Territory of Louisiana to form a constitution and State government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of all that part of the territory or country ceded under the name of Louisiana, by the treaty made at Paris on the thirtieth of April, one thousand eight hundred and three, between the United States and France, contained within the following limits, that is to say: Beginning at the mouth of the river Sabine; thence by a line to be drawn along the middle of the said river, including all islands, to the thirty-second degree of latitude; thence due north to the northernmost part of the thirty-third degree of north latitude; thence along the said parallel of latitude to the river Mississippi; thence down the said river to the river Iberville; and from thence, along the middle of the said river and Lakes Maurepas and Pontchartrain, to the Gulf of Mexico; thence bounded by the said gulf to the place of beginning, including all islands within three leagues of the coast, be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they may deem proper, under the provisions and upon the conditions hereinafter mentioned.

SEC. 2. *And be it further enacted,* That all free white male citizens of the United States, who shall have arrived at the age of twenty-one years, and resided within the said Territory at least one year previous to the day of election, and shall have paid a territorial, county, or district, or parish tax, and all persons having in other respects the legal qualifications to vote for representatives in the general assembly of the said Territory, be, and they are hereby, authorized to choose representatives to form a convention, who shall be apportioned amongst the several counties, districts, and parishes in the said Territory of Orleans in such manner as the legislature of the said Territory shall by law direct. The number of representatives shall not exceed sixty, and the elections for the representatives aforesaid shall take place on the third Monday in September next, and shall be conducted in the same manner as is now provided by the laws of the said Territory for electing members for the house of representatives.

SEC. 3. *And be it further enacted,* That the members of the convention, when duly elected, be, and they are hereby, authorized to meet at the city of New Orleans, on the first Monday of November next, which convention, when met, shall first determine, by a majority of the whole number elected, whether it be expected or not, at that time, to form a constitution and State government for the people within the said Territory, and if it be determined to be expedient, then the convention shall in like manner declare, in behalf of the people of the said Territory, that it adopts the Constitution of the United States; whereupon the said convention shall be, and hereby is, authorized to form a constitution and State government for the people of the said Territory: *Provided,* The constitution to be formed, in virtue of the authority herein given, shall be republican, and consistent with the Constitution of the United States; that it shall contain the fundamental principles of civil and religious liberty; that it shall secure to the citizen the trial by jury in all criminal cases, and the privilege of the writ of *habeas corpus,* conformable to the provisions of the Constitution of the United States; and that after the admission of the said Territory of Orleans as a State into the Union, the laws which such State may pass shall be promulgated and its records of every description shall be preserved, and its judicial and legislative written proceedings conducted in the language in which the laws and the judicial and legislative written proceedings of the United States are now published and conducted: *And provided also,* That the said convention shall provide by an ordinance, irrevocable without the consent of the United States, that the people inhabiting the said Territory do agree and declare that they forever disclaim all right or title to the waste or unappropriated lands lying within the said Territory, and that the same shall be and remain at the sole and entire disposition of the United States, and moreover that each and every tract of land sold by Congress shall be and remain exempt from any tax laid by the order or under the authority of the State, whether for State, county, town-

ship, parish, or any other purpose whatever, for the term of five years from and after the respective days of the sales thereof, and that the lands belonging to citizens of the United States residing without the said State shall never be taxed higher than the lands belonging to persons residing therein, and that no taxes shall be imposed on lands the property of the United States, and that the river Mississippi and the navigable rivers and waters leading into the same or into the Gulf of Mexico shall be common highways and forever free, as well to the inhabitants of the said State as to other citizens of the United States, without any tax, duty, impost, or toll therefor imposed by the said State.

SEC. 4. *And be it further enacted,* That in case the convention shall declare its assent in behalf of the people of the said Territory to the adoption of the Constitution of the United States, and shall form a constitution and State government for the people of the said Territory of Orleans, the said convention, as soon thereafter as may be, is hereby required to cause to be transmitted to Congress the instrument by which its assent to the Constitution of the United States is thus given and declared, and also a true and attested copy of such constitution or frame of State government as shall be formed and provided by said convention, and if the same shall not be disapproved by Congress, at their next session after the receipt thereof, the said State shall be admitted into the Union upon the same footing with the original States.

SEC. 5. *And be it further enacted,* That five per centum of the net proceeds of the sales of the lands of the United States, after the first day of January, shall be applied to laying out and constructing public roads and levees in the said State, as the legislature thereof may direct.

APPROVED, February 20, 1811.

CONSTITUTION OF LOUISIANA—1812.*

We, the representatives of the people of all that part of the Territory or county ceded under the name of Louisiana, by the treaty made at Paris on the 30th day of April, 1803, between the United States and France, contained in the following limits, to wit: Beginning at the mouth of the river Sabine; thence by a line to be drawn along the middle of said river, including all islands, to the thirty-second degree of latitude; thence due north to the northernmost part of the thirty-third degree of north latitude; thence along the said parallel of latitude, to the river Mississippi; thence down the said river to the river Iberville, and from thence, along the middle of the said river and Lakes Maurepas and Pontchartrain, to the Gulf of Mexico; thence, bounded by the said gulf to the place of beginning, including all islands within three leagues of the coast, in convention assembled, by virtue of an act of Congress entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of the State into the Union on an equal footing with the original States, and for other purposes," in order to secure to all the citizens thereof the enjoyment of the rights of life, liberty, and property, do ordain and establish the following constitution or form of government, and do mutually agree with each other to form ourselves into a free and independent State, by the name of the State of Louisiana.

ARTICLE I.

CONCERNING THE DISTRIBUTION OF THE POWERS OF GOVERNMENT.

SECTION 1. The powers of the government of the State of Louisiana shall be divided into three distinct departments, and each of them be confined to a separate body of

*This constitution was framed by a convention which met at New Orleans November, 1811, and completed its labors January 22, 1812.

magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judiciary, to another.

SEC. 2. No person or collection of persons, being one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE II.

CONCERNING THE LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in two distinct branches; the one to be called the house of representatives, the other the senate, and both together the general assembly of the State of Louisiana.

SEC. 2. The members of the house of representatives shall continue in service for the term of two years from the day of the commencement of the general election.

SEC. 3. Representatives shall be chosen on the first Monday in July, every two years; and the general assembly shall convene on the first Monday in January in every year, unless a different day be appointed by law; and their sessions shall be held at the seat of government.

SEC. 4. No person shall be a representative who, at the time of his election, is not a free white male citizen of the United States, and hath not attained the age of twenty-one years, and resided in this State two years next preceding his election, and the last year thereof in the county of which he may be chosen, or in the district for which he is elected, in case the said counties may be divided into separate districts of election, and has not held for one year, in the said county or district, landed property to the value of five hundred dollars, agreeably to the tax-list.

SEC. 5. Elections for representatives for the several counties entitled to representation shall be held at the places of holding their respective courts, or in the several election-precincts into which the legislature may think proper from time to time to divide any or all of those counties.

SEC. 6. Representation shall be equal and uniform in this State; and shall be forever regulated and ascertained by the number of qualified electors therein. In the year one thousand eight hundred and thirteen, and every four years thereafter, an enumeration of all the electors shall be made in such manner as shall be directed by law. The number of representatives shall, in the several years of making these enumerations, be so fixed as not to be less than twenty-five nor more than fifty.

SEC. 7. The house of representatives shall choose its speaker and other officers.

SEC. 8. In all elections for representatives, every free white male citizen of the United States who, at the time being, hath attained to the age of twenty-one years, and resided in the county in which he offers to vote for one year next preceding the election, and who in the last six months prior to the said election shall have paid a State tax, shall enjoy the rights of an elector: *Provided, however*, That every free white male citizen of the United States who shall have purchased lands from the United States shall have the right of voting whenever he shall have the other qualifications of age and residence above prescribed. Electors shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at, going to, or returning from elections.

SEC. 9. The members of the senate shall be chosen for the term of four years; and, when assembled, shall have the power to choose its officers annually.

SEC. 10. The State shall be divided into fourteen senatorial districts, which shall forever remain indivisible, as follows: The parish of Saint Bernard and Plaquemines, including the country above as far as the canal (Des Pecheurs) on the east of the Mississippi, and on the west as far as Bernody's Canal, shall form one district. The city of New Orleans, beginning at the Nuns' Plantation above, and extending below as far as the above-mentioned canal, (Des Pecheurs,) including the inhabitants of the Bayou St. John, shall form the second district. The remainder of the county of Orleans shall form the third district. The counties of German Coast, Acadia, La Fourche, Iberville, Point Coupee, Concordia, Attakapas, Opelousas, Rapides, Nachitoches, and Ouachita, shall each form one district, and each district shall elect a senator.

SEC. 11. At the first session of the general assembly after this constitution takes effect, the senators shall be divided by lot, as equally as may be, into two classes; the seats of the senators of the first class shall be vacated at the expiration of the second year, and of the second class at the expiration of the fourth year, so that a rotation shall be chosen every two years, and one-half thereby be kept up perpetually.

SEC. 12. No person shall be a senator who, at the time of his election, is not a citizen of the United States, and who hath not attained to the age of twenty-seven years, resided in this State four years next preceding his election, and one year in the district in which he may be chosen, and unless he holds within the same a landed property of the value of one thousand dollars, agreeably to the tax-list.

SEC. 13. The first election for senators shall be general throughout the State, and at the same time that the general election for representatives is held; and thereafter there shall be a biennial election of senators to fill the places of those whose time of service may have expired.

SEC. 14. Not less than a majority of the members of each house of the general assembly shall form a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized by law to compel the attendance of absent members, in such manner and under such penalties as may be prescribed thereby.

SEC. 15. Each house of the general assembly shall judge of the qualifications, elections, and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

SEC. 16. Each house of the general assembly may determine the rules of its proceedings, punish a member for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offence.

SEC. 17. Each house of the general assembly shall keep and publish weekly a journal of its proceedings; and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on their journal.

SEC. 18. Neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 19. The members of the general assembly shall severally receive from the public treasury a compensation for their services, which shall be four dollars per day, during their attendance at, going to, and returning from, the sessions of their respective houses: *Provided*, That the same may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the house of representatives by whom such alteration shall have been made.

SEC. 20. The members of the general assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest, during their attendance at the sessions of their respective houses, and in going to or returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 21. No senator or representative shall, during the term for which he was elected, or one year thereafter, be appointed or elected to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during the time such senator or representative was in office, except to such offices or appointments as may be filled by the elections of the people.

SEC. 22. No person, while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society, or sect, shall be eligible to the general assembly, or to any office of profit or trust under this State.

SEC. 23. No person who at any time may have been a collector of taxes for the State, or the assistant or deputy of such collector, shall be eligible to the general assembly until he shall have obtained a quietus for the amount of such collection, and for all public moneys for which he may be responsible.

SEC. 24. No bill shall have the force of a law until, on three several days, it be read over in each house of the general assembly, and free discussion allowed thereon; unless, in case of urgency, four-fifths of the house where the bill shall be depending may deem it expedient to dispense with this rule.

SEC. 25. All bills for raising revenue shall originate in the house of representatives,

but the senate may propose amendments as in other bills: *Provided*, That they shall not introduce any new matter, under the color of an amendment, which does not relate to raising a revenue.

SEC. 26. The general assembly shall regulate by law by whom and in what manner writs of election shall be issued to fill the vacancies which may happen in either branch thereof.

ARTICLE III.

CONCERNING THE EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive powers of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of Louisiana.

SEC. 2. The governor shall be elected for the term of four years, in the following manner: The citizens entitled to vote for representatives shall vote for a governor, at the time and place of voting for representatives and senators. Their votes shall be returned by the persons presiding over the elections to the seat of government, addressed to the president of the senate; and on the second day of the general assembly the members of the two houses shall meet in the house of representatives, and immediately after the two candidates who shall have obtained the greatest number of votes shall be balloted for, and the one having a majority of votes shall be governor: *Provided, however*, That if more than two candidates have obtained the highest number of votes, it shall be the duty of the general assembly to ballot for them in the manner above prescribed; and in case several candidates should obtain an equal number of votes next to the candidate who has obtained the highest number, it shall be the duty of the general assembly to select in the same manner the candidate who is to be balloted for, with him who has obtained the highest number of votes.

SEC. 3. The governor shall be ineligible for the succeeding four years after the expiration of the time for which he shall have been elected.

SEC. 4. He shall be at least thirty-five years of age, and a citizen of the United States, and have been an inhabitant of this State at least six years preceding his election, and shall hold in his own right a landed estate of five thousand dollars' value, agreeably to the tax-list.

SEC. 5. He shall commence the execution of his office on the fourth Monday succeeding the day of his election, and shall continue in the execution thereof until the end of four weeks next succeeding the election of his successor, and until his successor shall have taken the oath or affirmation prescribed by this constitution.

SEC. 6. No member of Congress, or person holding any office under the United States, or minister of any religious society, shall be eligible to the office of governor.

SEC. 7. The governor shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 8. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof, except when they shall be called into the service of the United States; but he shall not command personally in the field, unless he shall be advised so to do by a resolution of the general assembly.

SEC. 9. He shall nominate and appoint, with the advice and consent of the senate, judges, sheriffs, and all other officers whose offices are established by this constitution, and whose appointments are not herein otherwise provided for: *Provided, however*, That the legislature shall have a right to prescribe the mode of appointment of all other offices to be established by law.

SEC. 10. The governor shall have power to fill up vacancies that may happen during the recess of the legislature, by granting commissions which shall expire at the end of the next session.

SEC. 11. He shall have power to remit fines and forfeitures, and, except in cases of impeachment, to grant reprieves and pardons, with the approbation of the senate. In cases of treason he shall have power to grant reprieves, until the end of the next session of the general assembly, in which the power of pardoning shall be vested.

SEC. 12. He may require information in writing from the officers in the executive department upon any subject relating to the duties of their respective offices.



SEC. 13. He shall from time to time give to the general assembly information respecting the situation of the State, and recommend to their consideration such measures as he may deem expedient.

SEC. 14. He may on extraordinary occasions convene the general assembly at the seat of government, or at a different place, if that should have become dangerous from an enemy or from contagious disorders; and in case of disagreement between the two houses, with respect to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months.

SEC. 15. He shall take care that the laws be faithfully executed.

SEC. 16. It shall be his duty to visit the different counties at least once in every two years, to inform himself of the state of the militia and the general condition of the country.

SEC. 17. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the president of the senate shall exercise all the power and authority appertaining to the office of governor, until another be duly qualified, or the governor absent or impeached shall return or be acquitted.

SEC. 18. The president of the senate, during the time he administers the government, shall receive the same compensation which the governor would have received had he been employed in the duties of his office.

SEC. 19. A secretary of state shall be appointed and commissioned during the term for which the governor shall have been elected, if he shall so long behave himself well; he shall keep a fair register, and attest all official acts and proceedings of the governor; and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before either house of the general assembly; and shall perform such other duties as may be enjoined him by law.

SEC. 20. Every bill which shall have passed both houses shall be presented to the governor; if he approve, he shall sign it; if not, he shall return it with his objections to the house in which it shall have originated; who shall enter the objections at large upon their journal, and proceed to reconsider it; if, after such reconsideration, two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent with the objections to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house, it shall be a law; but in such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house respectively; if any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly by their adjournment prevent its return, in which case it shall be a law, unless sent back within three days after their next meeting.

SEC. 21. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him; or, being disapproved, shall be repassed by two-thirds of both houses.

SEC. 22. The free white men of this State shall be armed and disciplined for its defence; but those who belong to religious societies whose tenets forbid them to carry arms shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC. 23. The militia of this State shall be organized in such manner as may hereafter be deemed most expedient by the legislature.

ARTICLE IV.

CONCERNING THE JUDICIARY DEPARTMENT.

SECTION 1. The judiciary powers shall be vested in a supreme court and inferior courts.

SEC. 2. The supreme court shall have appellate jurisdiction only, which jurisdiction shall extend to all civil cases when the matter in dispute shall exceed the sum of three hundred dollars.

SEC. 3. The supreme court shall consist of not less than three judges, nor more than five, the majority of whom shall form a quorum; each of said judges shall receive a salary of five thousand dollars annually. The supreme court shall hold its sessions at the places hereinafter mentioned; and for that purpose the State is hereby divided into two districts of appellate jurisdiction, in each of which the supreme court shall administer justice, in the manner hereafter prescribed. The eastern district to consist of the counties of New Orleans, German Coast, Acadia, La Fourche, Iberville, and Point Coupee. The western district to consist of the counties of Attakapas, Opelousas, Rapides, Concordia, Natchitoches, and Ouachita. The supreme court shall hold its sessions in each year, for the eastern district, in December, January, February, March, April, May, June, and July; and for the western district, at the Opelousas, during the months of August, September, and October, for five years: *Provided, however*, That every five years the legislature may change the place of holding said court in the western district. The said court shall appoint its own clerks.

SEC. 4. The legislature is authorized to establish such inferior courts as may be convenient to the administration of justice.

SEC. 5. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; but for any reasonable cause which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of three-fourths of each house of the general assembly: *Provided, however*, That the cause or causes for which such removal may be required shall be stated at length in the address, and inserted on the journal of each house.

SEC. 6. The judges, by virtue of their office, shall be conservators of the peace throughout the State; the style of all process shall be "The State of Louisiana." All prosecutions shall be carried on in the name and by the authority of the State of Louisiana, and conclude "against the peace and dignity of the same."

SEC. 7. There shall be an attorney-general for the State, and as many other prosecuting attorneys for the State as may be hereafter found necessary. The said attorneys shall be appointed by the governor, with the advice and approbation of the senate. Their duties shall be determined by law.

SEC. 8. All commissions shall be in the name and by the authority of the State of Louisiana, and sealed with the State seal, and signed by the governor.

SEC. 9. The State treasurer, and printer or printers of the State, shall be appointed annually by the joint vote of both houses of the general assembly: *Provided*, That during the recess of the same the governor shall have power to fill vacancies which may happen in either of the said offices.

SEC. 10. The clerks of the several courts shall be removable for breach of good behavior by the court of appeals only, who shall be judge of the fact as well as of the law.

SEC. 11. The existing laws in this Territory, when this constitution goes into effect, shall continue to be in force until altered or abolished by the legislature: *Provided, however*, That the legislature shall never adopt any system or code of laws by a general reference to the said system or code, but in all cases shall specify the several provisions of the laws it may enact.

SEC. 12. The judges of all courts within this State shall, as often as it may be possible so to do, in every definite judgment, refer to the particular law in virtue of which such judgment is founded.

ARTICLE V.

CONCERNING IMPEACHMENT.

SECTION 1. The power of impeachment shall be vested in the house of representatives alone.

SEC. 2. All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 3. The governor and all the civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than

to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the parties convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment according to law.

ARTICLE VI.

GENERAL PROVISIONS.

SECTION 1. Members of the general assembly, and all officers, executive and judicial, before they enter upon the execution of their respective offices, shall take the following oath or affirmation; "I, [A. B.,] do solemnly swear [or affirm] that I will faithfully and impartially discharge and perform all the duties incumbent on me, as ——, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and the laws of this State: So help me God."

SEC. 2. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his confession in open court.

SEC. 3. Every person shall be disqualified from serving as governor, senator, or representative, for the term for which he shall have been elected, who shall have been convicted of having given or offered any bribe to procure his election.

SEC. 4. Laws shall be made to exclude from office and from suffrage those who shall thereafter be convicted of bribery, perjury, forgery, or other high crimes and misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practices.

SEC. 5. No money shall be drawn from the treasury but in pursuance of appropriations made by law; nor shall any appropriation of money, for the support of an army, be made for a longer term than one year; and a regular statement and account of the receipts and expenditures of all public moneys shall be published annually.

SEC. 6. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties who may choose that summary mode of adjustment.

SEC. 7. All civil officers for the State at large shall reside within the State; and all district or county officers, within their respective districts or counties, and shall keep their respective offices at such places therein as may be required by law.

SEC. 8. The legislature shall determine the time of duration of the several public offices, when such time shall not have been fixed by the constitution; and all civil officers, except the governor and judges of the superior and inferior courts, shall be removable by an address of two-thirds of the members of both houses, except those the removal of whom has been otherwise provided for by this constitution.

SEC. 9. Absence on the business of this State or of the United States shall not forfeit a residence once obtained, so as to deprive any one of the rights of suffrage, or of being elected or appointed to any office under this State, under the exceptions contained in this constitution.

SEC. 10. It shall be the duty of the general assembly to regulate by law in what cases and what deduction from the salaries of public officers shall be made for neglect of duty in their official capacity.

SEC. 11. Return of all elections for the members of the general assembly shall be made to the secretary of state for the time being.

SEC. 12. The legislature shall point out the manner in which a man coming into the country shall declare his residence.

SEC. 13. In all elections by the people, and also by the senate and house of representatives, jointly or separately, the votes shall be given by ballot.

SEC. 14. No member of Congress, nor person holding or exercising any office of trust or profit under the United States, or either of them, or under any foreign powers, shall be eligible as a member of the general assembly of this State, or hold or exercise any office of trust or profit under the same.

SEC. 15. All laws that may be passed by the legislature of the State of Louisiana, and the judicial and legislative written proceedings of the same, shall be promulgated, preserved, and conducted in the language in which the Constitution of the United States is written.

SEC. 16. The general assembly shall direct by law how persons who now are or may hereafter become securities for public officers may be returned or discharged on account of such securityship.

SEC. 17. No power of suspending the laws of this State shall be exercised, unless by the legislature or its authority.

SEC. 18. In all criminal prosecutions, the accused shall have the right of being heard, by himself or counsel; of demanding the nature and cause of the accusation against him; of meeting the witnesses face to face; of having compulsory process for obtaining witnesses in his favor; and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; nor shall he be compelled to give evidence against himself.

SEC. 19. All prisoners shall be bailable by sufficient securities, unless for capital offences, where the proof is evident or presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SEC. 20. No *ex post facto* law, nor any law impairing the obligation of contracts, shall be passed.

SEC. 21. Printing-presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any branch of the government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

SEC. 22. Emigration from the State shall not be prohibited.

SEC. 23. The citizens of the town of New Orleans shall have the right of appointing the several public officers necessary for the administration and the police of the said city, pursuant to the mode of election which shall be prescribed by the legislature: *Provided*, That the mayor and recorder shall be ineligible to a seat in the general assembly.

SEC. 24. The seat of government shall continue at New Orleans until removed by law.

SEC. 25. All laws contrary to this constitution shall be null and void.

ARTICLE VII.

MODE OF REVISING THE CONSTITUTION.

SECTION 1. When experience shall point out the necessity of amending this constitution, and a majority of all the members elected to each house of the general assembly shall, within the first twenty days of their stated annual session, concur in passing a law, specifying the alterations intended to be made, for taking the sense of the good people of this State as to the necessity and expediency of calling a convention, it shall be the duty of the several returning-officers at the next general election which shall be held for representatives after the passage of such law, to open a poll for and make return to the secretary for the time being of the names of all those entitled to vote for representatives who have voted for calling a convention; and if thereupon it shall appear that a majority of all the citizens of this State, entitled to vote for representatives, have voted for a convention, the general assembly shall direct that a similar poll shall be opened and taken from the next year; and if thereupon it shall appear that a majority of all the citizens of this State entitled to vote for representatives have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there shall be in the general assembly, and no more, to be chosen in the same manner and proportion, at the same places, and at the same time, that representatives are, by citizens entitled to vote for representatives; and to meet within three months after the said election for

the purpose of readopting, amending, or changing this constitution. But if it shall appear, by the vote of either year, as aforesaid, that a majority of all the citizens entitled to vote for representatives did not vote for a convention, a convention shall not be called.

SCHEDULE.

SECTION. 1. That no inconveniences may arise from a change of a territorial to a permanent State government, it is declared by the convention that all rights, suits, actions, prosecutions, claims, and contracts, both as it respects individuals and bodies-corporate, shall continue as if no change had taken place in this government, in virtue of the laws now in force.

SEC. 2. All fines, penalties, and forfeitures due and owing to the Territory of Orleans shall inure to the use of the State. All bonds executed to the governor, or any other officer in his official capacity in the Territory, shall pass over to the governor, or to the officers of the State, and their successors in office, for the use of the State, by him or by them to be respectively assigned over to the use of those concerned, as the case may be.

SEC. 3. The governor, secretary, and judges, and all other officers under the territorial government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of the constitution.

SEC. 4. All laws now in force in this Territory, not inconsistent with this constitution, shall continue and remain in full effect until repealed by the legislature.

SEC. 5. The governor of this State shall make use of his private seal until a State seal be procured.

SEC. 6. The oaths of office herein directed to be taken may be administered by any justice of the peace, until the legislature shall otherwise direct.

SEC. 7. At the expiration of the time after which this constitution is to go into operation, or immediately after official information shall have been received that Congress have approved of the same, the president of the convention shall issue writs of election to the proper officers in the different counties, enjoining them to cause an election to be held for governor and members of the general assembly, in each of their respective districts. The election shall commence on the fourth Monday following the day of the president's proclamation, and shall take place on the same day throughout the State. The mode and duration of the said election shall be determined by the laws now in force: *Provided, however*, That in case of absence or disability of the president of the convention to cause the said election to be carried into effect, the secretary of the convention shall discharge the duties hereby imposed on the president; and that in case of the absence of the secretary, a committee of Messrs. Blanque, Brown, and Urquhart, or a majority of them, shall discharge the duties herein imposed on the secretary of the convention; and the members of the general assembly thus elected shall assemble, on the fourth Monday thereafter, at the seat of government. The governor and members of the general assembly, for this time only, shall enter upon the duties of their respective offices immediately after their election, and shall continue in office in the same manner and during the same period they would have done had they been elected on the first Monday of July, 1812.

SEC. 8. Until the first enumeration shall be made, as directed in the sixth section of the second article of this constitution, the county of New Orleans shall be entitled to six representatives, to be elected as follows: one by the first senatorial district within the said county, four by the second district, and one by the third district; the county of German Coast to two representatives; the county of Acadia to two representatives; the county of Iberville to two representatives; the county of LaFourche to two representatives, to be elected as follows: one by the parish of Assumption, and the other by the parish of the Interior; the county of Rapides to two representatives; the county of Natchitoches to one representative; the county of Concordia to one representative; the county of Ouachita to one representative; the county of Opelousas to two representatives; the county of Attakapas to three representatives, to be elected as follows: two by the parish of Saint Martin, and the third by the parish of

Saint Mary; and the respective senatorial districts created by this constitution to one senator each.

Done in convention, at New Orleans, the 22d day of the month of January, in the year of our Lord 1812, and of the Independence of the United States of America the thirty-sixth.

J. POYDRAS, *President.*

ELIJIUS FROMENTIN, *Secretary.*

AN ORDINANCE

Relating to the public lands of the United States, and the lands of non-resident proprietors, citizens of said States, within the Territory of Orleans.

Be it ordained by the representatives of the people of the Territory of Orleans in convention assembled, agreeably to an act of Congress entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes," that the people inhabiting the said Territory do agree and declare, that they do forever disclaim all right or title to the waste or unappropriated lands lying within the said Territory, and that the same shall be and remain at the sole and entire disposition of the United States.

And be it further ordained by the authority aforesaid, that each and every tract of land sold by Congress shall be and remain exempt from any tax laid by the order or under the authority of the State of Louisiana, whether for State, county, township, parish, or any other purpose whatever, for the term of five years from and after the respective days of the sales thereof; and that the lands belonging to the citizens of the United States residing without the said State shall never be taxed higher than the lands belonging to persons residing therein, and that no taxes shall be imposed on lands the property of the United States.

And be it further ordained by the authority aforesaid, that this ordinance shall never be revoked without the consent of the United States, in Congress assembled, being first obtained for that purpose.

By the unanimous order of the convention:

J. POYDRAS, *President.*

ELIJIUS FROMENTIN, *Secretary.*

Done in convention, at New Orleans, this 28th day of January, in the year of our Lord 1812, and of the Independence of the United States the thirty-sixth.

ACT FOR THE ADMISSION OF LOUISIANA—1812.

[TWELFTH CONGRESS, FIRST SESSION.]

Act declaring the admission of the State of Louisiana into the Union.

Whereas the representatives of the people of all that part of the territory or country ceded, under the name of "Louisiana," by the treaty made at Paris on the thirtieth day of April, one thousand eight hundred and three, between the United States and France, contained within the following limits, that is to say: Beginning at the mouth of the river Sabine; thence, by a line to be drawn along the middle of said river, including all islands, to the thirty-second degree of latitude; thence due north to the northernmost part of the thirty-third degree of north latitude; thence along the said parallel of latitude to the river Mississippi; thence down the said river to the river Iberville; and from thence along the middle of the said river, and lakes Maurepas and Pontchartrain, to the Gulf of Mexico; thence bounded by the said Gulf to the place of beginning, including all islands within three leagues of the coast, did, on

the twenty-second day of January, one thousand eight hundred and twelve, form for themselves a constitution and State government, and give to the said State the name of the State of Louisiana, in pursuance of an act of Congress entitled "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of the said State into the Union on an equal footing with the original States, and for other purposes;" and the said constitution having been transmitted to Congress, and by them being hereby approved: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the said State shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever, by the name and title of the State of Louisiana: *Provided*, That it shall be taken as a condition upon which the said State is incorporated in the Union, that the river Mississippi, and the navigable rivers and waters leading into the same, and into the Gulf of Mexico, shall be common highways and forever free, as well to the inhabitants of the said State as to the inhabitants of other States and the Territories of the United States, without any tax, duty, impost, or toll therefor, imposed by the said State; and that the above condition, and also all other the conditions and terms contained in the third section of the act, the title whereof is hereinbefore recited, shall be considered, deemed, and taken fundamental conditions and terms, upon which the said State is incorporated in the Union.

SEC. 2. *And be it further enacted*, That until the next general census and apportionment of Representatives, the said State shall be entitled to one Representative in the House of Representatives of the United States; and that all the laws of the United States not locally inapplicable shall be extended to the said State, and shall have the same force and effect within the same as elsewhere within the United States.

SEC. 3. *And be it further enacted*, That the said State, together with the residue of that portion of country which was comprehended within the Territory of Orleans, as constituted by the act entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof," shall be one district, and be called the Louisiana District; and there shall be established in the said District a district court, to consist of one judge, who shall reside therein, and be called the district judge; and there shall be, annually, four stated sessions of the said court held at the city of Orleans; the first to commence on the third Monday in July next, and the three other sessions progressively, on the third Monday of every third calendar month thereafter. The said judge shall, in all things, have and exercise the same jurisdiction and powers which, by the act the title whereof is in this section recited, were given to the district judge of the Territory of Orleans; and he shall be allowed an annual compensation of three thousand dollars, to be paid quarter-yearly at the Treasury of the United States. The said judge shall appoint a clerk of the said court, who shall reside and keep the records of the court in the city of Orleans, and shall receive for the services performed by him the same fees heretofore allowed to the clerk of the Orleans Territory.

SEC. 4. *And be it further enacted*, That there shall be appointed in the said District a person learned in the law, to act as attorney for the United States, who shall, in addition to his stated fees, be paid six hundred dollars annually as a full compensation for all extra services. There shall also be appointed a marshal for the said District, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees to which marshals in other districts are entitled for similar services; and shall, moreover, be paid two hundred dollars annually as a compensation for all extra services.

SEC. 5. *And be it further enacted*, That nothing in this act shall be construed to repeal the fourth section of an act entitled "An act for laying and collecting duties on imports and tonnage within the territories ceded to the United States by the treaty of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic, and for other purposes;" and that the collection-district shall be and remain as thereby established.

SEC. 6. *And be it further enacted*, That this act shall commence and be in force from and after the thirtieth day of April, eighteen hundred and twelve.

APPROVED, April 8, 1812.

ACT TO ENLARGE THE LIMITS OF LOUISIANA—1812.

[TWELFTH CONGRESS, FIRST SESSION.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in case the legislature of the State of Louisiana shall consent thereto, all that tract of country comprehended within the following bounds to wit: Beginning at the junction of the Iberville with the river Mississippi; thence, along the middle of the Iberville, the river Amite, and of the lakes Maurepas and Pontchartrain to the eastern mouth of the Pearl River; thence up the eastern branch of Pearl River to the thirty-first degree of north latitude; thence along the said degree of latitude to the river Mississippi; thence down the said river to the place of beginning, shall become and form a part of the State of Louisiana, and be subject to the constitution and laws thereof, in the same manner, and for all intents and purposes, as if it had been included within the original boundaries of the said State.

SEC. 2. *And be it further enacted,* That it shall be incumbent upon the legislature of the State of Louisiana, in case they consent to the incorporation of the territory aforesaid within their limits, at their first session, to make provision by law for the representation of the said territory in the legislature of the State upon the principles of the constitution, and for securing to the people of the said territory equal rights, privileges, benefits, and advantages with those enjoyed by the people of the other parts of the State; which law shall be liable to revision, modification, and amendment by Congress, and also in the manner provided for the amendment of the State constitution, but shall not be liable to change or amendment by the legislature of the State.

APPROVED, April 14, 1812.

CONSTITUTION OF LOUISIANA—1845.*

PREAMBLE.

We, the people of the State of Louisiana, do ordain and establish this constitution:

TITLE I.

DISTRIBUTION OF POWERS.

ARTICLE 1. The powers of the government of the State of Louisiana shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: Those which are legislative to one, those which are executive to another, and those which are judicial to another.

ART. 2. No one of these departments, nor any person holding office in one of them, shall exercise power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

TITLE II.

LEGISLATIVE DEPARTMENT.

ART. 3. The legislative powers of the State shall be vested in two distinct branches, the one to be styled the "house of representatives," the other "the senate," and both "the general assembly of the State of Louisiana."

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* This constitution was framed by a convention which met at Jackson August 5, 1844, and adjourned to New Orleans August 24, 1844 It resumed its labors at New Orleans January 14, 1845, and completed them May 16, 1845. The constitution was submitted to the people, and ratified November 5, 1845.

ART. 4. The members of the house of representatives shall continue in service for the term of two years from the day of the closing of the general elections.

ART. 5. Representatives shall be chosen on the first Monday in November every two years; and the election shall be completed in one day. The general assembly shall meet every second year, on the third Monday in January next ensuing the election, unless a different day be appointed by law, and their session shall be held at the seat of government.

ART. 6. No person shall be a representative who, at the time of his election, is not a free white male, and has not been for three years a citizen of the United States, and has not attained the age of twenty-one years, and resided in the State for the three years next preceding the election, and the last year thereof in the parish for which he may be chosen.

ART. 7. Elections for representatives for the several parishes or representative districts shall be held at the several election-precincts established by law. The legislature may delegate the power of establishing election-precincts to the parochial or municipal authorities.

ART. 8. Representation in the house of representatives shall be equal and uniform, and shall be regulated and ascertained by the number of qualified electors. Each parish shall have at least one representative; no new parish shall be created with a territory less than six hundred and twenty-five square miles, nor with a number of electors less than the full number entitling it to a representative, nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors.

The first enumeration to be made by the State authorities under this constitution shall be made in the year 1847, the second in the year 1855; and the subsequent enumerations shall be made every tenth year thereafter, in such manner as shall be prescribed by law for the purpose of ascertaining the total population and the number of qualified electors in each parish and election-district.

At the first regular session of the legislature after the making of each enumeration, the legislature shall apportion the representation amongst the several parishes and election-districts on the basis of qualified electors as aforesaid. A representative number shall be fixed, and each parish and election-district shall have as many representatives as the aggregate number of its electors will entitle it to, and an additional representative for any fraction exceeding one-half the representative number. The number of representatives shall not be more than one hundred nor less than seventy.

That part of the parish of Orleans situated on the left bank of the Mississippi shall be divided into nine representative districts, as follows, viz:

1st. First district to extend from the line of the parish of Jefferson to the middle of Benjamim, Estelle, and Thalia streets.

2d. Second district to extend from the last-mentioned limits to the middle of Julia street, until it strikes the New Orleans Canal; thence down said canal to the lake.

3d. Third district to comprise the residue of the second municipality.

4th. Fourth district to extend from the middle of Canal street to the middle of Saint Louis street, until it reaches the Metairie road; thence along said road to the New Orleans Canal.

5th. Fifth district to extend from the last-mentioned limits to the middle of Saint Philip street; thence down said street until its intersection with the Bayou Saint John; thence along the middle of said Bayou until it intersects the Metairie road; thence along said road until it reaches Saint Louis street.

6th. Sixth district to be composed of the residue of the first municipality.

7th. Seventh district, from the middle of Eplanade street to the middle of Champs Elysées street.

8th. Eighth district, from the middle of Champs Elysées street to the middle of Enghein street and La Fayette avenue.

9th. Ninth district, from the middle of Enghein street and La Fayette avenue to the lower limits of the parish.

ART. 9. The house of representatives shall choose its speaker and other officers.

ART. 10. In all elections by the people, every free white male, who has been two years a citizen of the United States, who has attained the age of twenty-one years, and resided in the State two consecutive years next preceding the election, and the last year thereof in the parish in which he offers to vote, shall have the right of voting: *Provided*, That no person shall be deprived of the right of voting who at the time of the adoption of this constitution was entitled to that right under the constitution of 1812. Electors shall in all cases, except treason, felony, breach of surety of the peace, be privileged from arrest during their attendance at, going to, or returning from elections.

ART. 11. Absence from the State for more than ninety consecutive days shall interrupt the acquisition of the residence required in the preceding section, unless the person absenting himself shall be a housekeeper, or shall occupy a tenement for carrying on business, and his dwelling-house or tenements for carrying on business shall be actually occupied, during his absence, by his family or servants, or some portion thereof, or by some one employed by him.

ART. 12. No soldier, seaman or marine in the Army or Navy of the United States, no pauper, no person under interdiction, nor under conviction of any crime punishable with hard labor, shall be entitled to vote at any election in this State.

ART. 13. No person shall be entitled to vote at any election held in this State, except in the parish of his residence, and, in cities and towns divided into election-precincts, in the election-precinct in which he resides.

ART 14. The members of the senate shall be chosen for the term of four years. The senate, when assembled, shall have the power to choose its officers every two years.

ART. 15. The legislature, in every year in which they shall apportion representation in the house of representatives, shall divide the State into senatorial districts. No parish shall be divided in the formation of a senatorial district, the parish of Orleans excepted. And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of its territory was taken, or to another contiguous district, at the discretion of the legislature; but shall not be attached to more than one district. The number of senators shall be thirty-two, and they shall be apportioned among the senatorial districts according to the total population contained in the several districts: *Provided*, That no parish shall be entitled to more than one-eighth of the whole number of senators.

ART. 16. In all apportionments of the senate, the population of the city of New Orleans shall be deducted from the population of the whole State, and the remainder of the population divided by the number twenty-eight, and the result produced by this division shall be the senatorial ratio entitling a senatorial district to a senator. Single or contiguous parishes shall be formed into districts having a population the nearest possible to the number entitling a district to a senator; and if, in the apportionment to be made, a parish or district fall short of or exceed the ratio one-fifth, then a district may be formed having not more than two senators, but not otherwise.

No new apportionment shall have the effect of abridging the term of service of any senator already elected at the time of making the apportionment.

After an enumeration has been made as directed in the [eighth] article, the legislature shall not pass any law until an apportionment of representation in both houses of the general assembly be made.

ART. 17. At the first session of the general assembly after this constitution takes effect, the senators shall be equally divided by lot into two classes; the seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year; so that one-half shall be chosen every two years, and a rotation thereby kept up perpetually. In case any district shall have elected two or more senators, said senators shall vacate their seats respectively at the end of two and four years, and lots shall be drawn between them.

ART. 18. No person shall be a senator who at the time of his election has not been a citizen of the United States ten years, and who has not attained the age of twenty-seven years, and resided in the State four years next preceding his election, and the last year thereof in the district in which he may be chosen.

ART. 19. The first election for senators shall be general throughout the State, and at the same time that the general election for representatives is held; and thereafter there shall be biennial elections to fill the place of those whose time of serviee may have expired.

ART. 20. Not less than a majority of the members of each house of the general assembly shall form a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized by law to compel the attendance of absent members.

ART. 21. Each house of the general assembly shall judge of the qualification, election, and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

ART. 22. Each house of the general assembly may determine the rules of its proceedings, punish a member for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offence.

ART. 23. Each house of the general assembly shall keep and publish weekly a journal of its proceedings; and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal.

ART. 24. Each house may punish, by imprisonment, any person not a member, for disrespectful and disorderly behavior in its presence, or for obstructing any of its proceedings. Such imprisonment shall not exceed ten days for any one offence.

ART. 25. Neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

ART. 26. The members of the general assembly shall receive from the public treasury a compensation for their services, which shall be four dollars per day during their attendance, going to, and returning from the session of their respective houses. The compensation may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the house of representatives by whom such alteration shall have been made. No session shall extend to a period beyond sixty days, to date from its commencement, and any legislative action had after the expiration of the said sixty days shall be null and void. This provision shall not apply to the first legislature which is to convene after the adoption of this constitution.

ART. 27. The members of the general assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and going to or returning from the same, and for any speech or debate in either house, they shall not be questioned in any other place.

ART. 28. No senator or representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this State, which shall have been created or the emoluments of which shall have been increased during the time such senator or representative was in office, except to such offices or appointments as may be filled by the elections of the people.

ART. 29. No person, while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society, or sect, shall be eligible to the general assembly.

ART. 30. No person who at any time may have been a collector of taxes, or who may have been otherwise intrusted with public money, shall be eligible to the general assembly, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been intrusted.

ART. 31. No bill shall have the force of a law until, on three several days, it be read over in each house of the general assembly, and free discussion allowed thereon: unless, in case of urgency, four-fifths of the house where the bill shall be pending may deem it expedient to dispense with this rule.

ART. 32. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments, as in other bills: *Provided*, They shall not

introduce any new matter, under color of an amendment, which does not relate to raising revenue.

ART. 33. The general assembly shall regulate by law by whom and in what manner writs of election shall be issued to fill the vacancies which may happen in either branch thereof.

ART. 34. A majority of all the members elected to the senate shall be required for the confirmation or rejection of officers to be appointed by the governor, with the advice and consent of the senate; and the senate, in deciding thereon, shall vote by yeas and nays, and the names of the senators voting for and against the appointments, respectively, shall be entered on a journal to be kept for that purpose, and made public at the end of each session, or before.

ART. 35. Returns of all elections for members of the general assembly shall be made to the secretary of state.

ART. 36. A treasurer of the State shall be elected biennially, by joint ballot of the two houses of the general assembly. The governor shall have power to fill any vacancy that may happen in that office during the recess of the legislature.

ART. 37. In the year in which a regular election for a Senator of the United States is to take place, the members of the general assembly shall meet in the hall of the house of representatives, on the Monday following the meeting of the legislature, and proceed to the said election.

TITLE III.

EXECUTIVE DEPARTMENT.

ART. 38. The supreme executive power of the State shall be vested in a chief magistrate, who shall be styled the governor of the State of Louisiana. He shall hold his office during the term of four years; and, together with the lieutenant-governor chosen for the same term, be elected as follows: The qualified electors for representatives shall vote for a governor and lieutenant-governor, at the time and place of voting for representatives; the returns of every election shall be sealed up and transmitted by the proper returning-officer to the secretary of state, who shall deliver them to the speaker of the house of representatives, on the second day of the session of the general assembly, then next to be holden. The members of the general assembly shall meet in the house of representatives to examine and count the votes. The person having the greatest number of votes for governor shall be declared duly elected; but if two or more persons shall be equal, and highest in the number of votes polled for governor, one of them shall immediately be chosen governor, by joint vote of the members of the general assembly. The person having the greatest number of votes for lieutenant-governor shall be lieutenant-governor; but if two or more persons shall be equal and highest in the number of votes polled for lieutenant-governor, one of them shall be immediately chosen lieutenant-governor, by joint vote of the members of the general assembly.

ART. 39. No person shall be eligible to the office of governor or lieutenant-governor who shall not have attained the age of thirty-five years, been fifteen years a citizen of the United States, and a resident within the State for the same space of time next preceding his election.

ART. 40. The governor shall enter on the discharge of his duties on the fourth Monday of January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall be declared duly elected, and shall have taken the oath or affirmation prescribed by this constitution.

ART. 41. The governor shall be ineligible for the succeeding four years after the expiration of the time for which he shall have been elected.

ART. 42. No member of Congress, or person holding any office under the United States, or minister of any religious society, shall be eligible to the office of governor or lieutenant-governor.

ART. 43. In case of the impeachment of the governor, his removal from office, death, refusal or inability to qualify, resignation, or absence from the State, the powers and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the governor, absent or impeached, shall return or be acquitted.

The legislature may provide by law for the case of removal, impeachment, death, resignation, disability, or refusal to qualify, of both the governor and lieutenant-governor, declaring what officer shall act as governor; and such officer shall act accordingly, until the disability be removed, or for the residue of the term.

ART. 44. The lieutenant-governor, or other officer discharging the duties of governor, shall, during his administration, receive the same compensation to which the governor would have been entitled had he continued in office.

ART. 45. The lieutenant-governor shall, by virtue of his office, be president of the senate, but shall have only a casting vote therein. Whenever he shall administer the government, or shall be unable to attend as president of the senate, the senators shall elect one of their own members as president of the senate for the time being.

ACT. 46. While he acts as president of the senate, the lieutenant-governor shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more.

ART. 47. The governor shall have power to grant reprieves for all offences against the State, and, except in cases of impeachment, shall, with the consent of the senate, have power to grant pardons, and remit fines and forfeitures, after conviction. In cases of treason, he may grant reprieves until the end of the next session of the general assembly, in which the power of pardoning shall be vested.

ART. 48. The governor shall at stated times receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected.

ART. 49. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof, except when they shall be called into the service of the United States.

ART. 50. He shall nominate, and, by and with the advice and consent of the senate, appoint all officers whose offices are established by this constitution, and whose appointment is not therein otherwise provided for: *Provided, however*, That the legislature shall have a right to prescribe the mode of appointment to all other offices established by law.

ART. 51. The governor shall have power to fill vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of the next session, unless otherwise provided for in this constitution; but no person who has been nominated for office, and rejected by the senate, shall be appointed to the same office during the recess of the senate.

ART. 52. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

ART. 53. He shall, from time to time, give to the general assembly information respecting the situation of the State, and recommend to their consideration such measures as he may deem expedient.

ART. 54. He may on extraordinary occasions convene the general assembly at the seat of government, or at a different place, if that should have become dangerous from an enemy or from epidemic; and in case of disagreement between the two houses as to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months.

ART. 55. He shall take care that the laws be faithfully executed.

ART. 56. Every bill which shall have passed both houses shall be presented to the governor; if he approve, he shall sign it, if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon its journal, and proceed to reconsider it; if after such reconsideration two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house, it shall be a law; but in such cases the vote of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly, by ad-

journment, prevent its return; in which case it shall be a law unless sent back within three days after their next meeting.

ART. 57. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect be approved by him, or being disapproved, shall be repassed by two-thirds of the members elected to each house of the general assembly.

ART. 58. There shall be a secretary of state, who shall hold his office during the time for which the governor shall have been elected. The records of the State shall be kept and preserved in the office of the secretary; he shall keep a fair register of the official acts and proceedings of the governor, and, when necessary, shall attest them. He shall, when required, lay the said register, and all papers, minutes, and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law.

ART. 59. All commissions shall be in the name and by the authority of the State of Louisiana, and shall be sealed with the State seal, and signed by the governor.

ART. 60. The free white men of the State shall be armed and disciplined for its defence; but those who belong to religious societies whose tenets forbid them to carry arms, shall not be compelled so to do, but shall pay an equivalent for personal services.

ART. 61. The militia of the State shall be organized in such manner as may be hereafter deemed most expedient by the legislature.

TITLE IV.

JUDICIARY DEPARTMENT.

ART. 62. The judicial power shall be vested in a supreme court, in district courts, and in justices of the peace.

ART. 63. The supreme court, except in cases hereinafter provided, shall have appellate jurisdiction only, which jurisdiction shall extend to all cases when the matter in dispute shall exceed three hundred dollars, and to all cases in which the constitutionality or legality of any tax, toll, or impost, of any kind or nature soever, shall be in contestation, whatever may be the amount thereof; and likewise to all fines, forfeitures, and penalties imposed by municipal corporations, and in criminal cases on questions of law alone, whenever the punishment of death of hard labor may be inflicted, or when a fine exceeding three hundred dollars is actually imposed.

ART. 64. The supreme court shall be composed of one chief justice and of three associate justices, a majority of whom shall constitute a quorum. The chief justice shall receive a salary of six thousand dollars, and each of the associate judges a salary of five thousand five hundred dollars annually. The court shall appoint its own clerks. The judges shall be appointed for the term of eight years.

ART. 65. When the first appointments are made under this constitution, the chief justice shall be appointed for eight years, one of the associate judges for six years, one for four years, and one for two years; and in the event of the death, resignation, or removal of any of said judges before the expiration of the period for which he was appointed, his successor shall be appointed only for the remainder of his term; so that the term of service of no two of said judges shall expire at the same time.

ART. 66. The supreme court shall hold its sessions in New Orleans from the first Monday of the month of November to the end of the month of June, inclusive. The legislature shall have power to fix the sessions elsewhere during the rest of the year; until otherwise provided, the sessions shall be held as heretofore.

ART. 67. The supreme court, and each of the judges thereof, shall have power to issue writs of *habeas corpus*, at the instance of all persons in actual custody under process, in all cases in which they may have appellate jurisdiction.

ART. 68. In all cases in which the judges shall be equally divided in opinion, the judgment appealed from shall stand affirmed; in which case each of the judges shall give his separate opinions in writing.

ART. 69. All judges, by virtue of their office, shall be conservators of the peace

throughout the State. The style of all process shall be "The State of Louisiana." All prosecutions shall be carried on in the name and by the authority of the State of Louisiana, and conclude against the peace and dignity of the same.

ART. 70. The judges of all the courts within this State shall, as often as it may be possible so to do, in every definitive judgment, refer to the particular law in virtue of which such judgment may be rendered, and in all cases adduce the reasons on which their judgment is founded.

ART. 71. No court or judge shall make any allowance by way of fee or compensation in any suit or proceedings, except for the payment of such fees to ministerial officers as may be established by law.

ART. 72. No duties or functions shall ever be attached by law to the supreme or district courts, or to the several judges thereof, but such as are judicial; and the said judges are prohibited from receiving any fees of office or other compensation than their salaries for any civil duties performed by them.

ART. 73. The judges of all courts shall be liable to impeachment; but for any reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them on the address of three-fourths of the members present of each house of the general assembly. In every such case the cause or causes for which such removal may be required shall be stated at length in the address, and inserted in the journal of each house.

ART. 74. There shall be an attorney-general for the State, and as many district attorneys as may be hereafter found necessary. They shall hold their offices for two years; their duties shall be determined by law.

ART. 75. The first legislature assembled under this constitution shall divide the State into judicial districts, which shall remain unchanged for six years, and be subject to reorganization every sixth year thereafter.

The number of districts shall not be less than twelve nor more than twenty.

For each district one judge, learned in the law, shall be appointed, except in the districts in which the cities of New Orleans and LaFayette are situated, in which the legislature may establish as many district courts as the public interest may require.

ART. 76. Each of the said judges shall receive a salary to be fixed by law, which shall not be increased or diminished during his term of office, and shall never be less than two thousand five hundred dollars annually. He must be a citizen of the United States, over the age of thirty years, and have resided in the State for six years next preceding his appointment, and have practised law therein for the space of five years.

ART. 77. The judges of the district courts shall hold their offices for the term of six years. The judges first appointed shall be divided by lot into three classes, as nearly equal as can be, and the term of office of the judges of the first class shall expire at the end of two years, of the second class at the end of four years, and of the third class at the end of six years.

ART. 78. The district courts shall have original jurisdiction in all civil cases, when the amount in dispute exceeds fifty dollars, exclusive of interest. In all criminal cases, and in all matters connected with successions, their jurisdiction shall be unlimited.

ART. 79. The legislature shall have power to vest in clerks of courts authority to grant such orders and do such acts as may be deemed necessary for the furtherance of the administration of justice, and in all cases the powers thus granted shall be specified and determined.

ART. 80. The clerks of the several courts shall be removable for breach of good behavior by the judges thereof; subject in all cases to an appeal to the supreme court.

ART. 81. The jurisdiction of justices of the peace shall never exceed, in civil cases, the sum of one hundred dollars, exclusive of interest, subject to appeal to the district court in such cases as shall be provided for by law. They shall be elected by the qualified voters of each parish for the term of two years, and shall have such criminal jurisdiction as shall be provided for by law.

ART. 82. Clerks of the district courts in this State shall be elected by the qualified

electors in each parish, for the term of four years, and, should a vacancy occur subsequent to an election, it shall be filled by the judge of the court in which such vacancy exists, and the person so appointed shall hold his office until the next general election.

ART. 83. A sheriff and a coroner shall be elected in each parish, by the qualified voters thereof, who shall hold their offices for the term of two years, unless sooner removed.

Should a vacancy occur in either of these offices subsequent to an election, it shall be filled by the governor; and the person so appointed shall continue in office until his successor shall be elected and qualified.

TITLE V.

IMPEACHMENT.

ART. 84. The power of impeachment shall be vested in the house of representatives.

ART. 85. Impeachments of the governor, lieutenant-governor, attorney-general, secretary of state, State treasurer, and of the judges of the district courts, shall be tried by the senate; the chief-justice of the supreme court, or the senior judge thereof, shall preside during the trial of such impeachment. Impeachments of the judges of the supreme court shall be tried by the senate. When sitting as a court of impeachment, the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present.

ART. 86. Judgments in cases of impeachment shall extend only to removal from office and disqualification from holding any office of honor, trust, or profit under this State; but the parties convicted shall, nevertheless, be subject to indictment, trial, and punishment, according to law.

ART. 87. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of their functions during the pendency of such impeachment; the appointing power may make a provisional appointment to replace any suspended officer until the decision on the impeachment.

ART. 88. The legislature shall provide by law for the trial, punishment, and removal from office of all other officers of the State, by indictment or otherwise.

TITLE VI.

GENERAL PROVISIONS.

ART. 89. Members of the general assembly, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation:

"I, [A. B.,] do solemnly swear [or affirm] that I will faithfully and impartially discharge and perform all the duties incumbent on me as ——, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States and of this State; and I do further solemnly swear [or affirm] that, since the adoption of the present constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State, nor out of it, with a citizen of this State, nor have I sent or accepted a challenge to fight a duel with deadly weapons with a citizen of this State, nor have I acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending: So help me God."

ART. 90. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

ART. 91. Every person shall be disqualified from holding any office of trust or profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

ART. 92. Laws shall be made to exclude from office, and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws



regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practice.

ART. 93. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law, nor shall any appropriation of money be made for a longer term than two years. A regular statement and account of the receipts and expenditures of all public moneys shall be published annually, in such manner as shall be prescribed by law.

ART. 94. It shall be the duty of the general assembly to pass such laws as may be proper and necessary to decide differences by arbitration.

ART. 95. All civil officers for the State at large shall reside within the State, and all district or parish officers within their districts or parishes, and shall keep their offices at such places therein as may be required by law. And no person shall be elected or appointed to any parish office who shall not have resided in such parish long enough before such election or appointment to have acquired the right of voting in such parish; and no person shall be elected or appointed to any district office who shall not have resided in such district, or an adjoining district, long enough before such appointment or election to have acquired the right of voting for the same.

ART. 96. The duration of all offices not fixed by this constitution shall never exceed four years.

ART. 97. All civil officers, except the governor and judges of the supreme and district courts, shall be removable by an address of a majority of the members of both houses, except those the removal of whom has been otherwise provided for by this constitution.

ART. 98. Absence on the business of this State or of the United States shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under the exceptions contained in this constitution.

ART. 99. It shall be the duty of the legislature to provide by law for deductions from the salaries of public officers who may be guilty of a neglect of duty.

ART. 100. The legislature shall point out the manner in which a person coming into the State shall declare his residence.

ART. 101. In all elections by the people the vote shall be by ballot, and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*.

ART. 102. No member of Congress, or person holding or exercising any office of trust or profit under the United States, or either of them, or under any foreign power, shall be eligible as a member of the general assembly, or hold or exercise any office of trust or profit under the State.

ART. 103. The laws, public records, and the judicial and legislative written proceedings of the State, shall be promulgated, preserved, and conducted in the language in which the Constitution of the United States is written.

ART. 104. The secretary of the senate and clerk of the house of representatives shall be conversant with the French and English languages, and members may address either house in the French or English language.

ART. 105. The general assembly shall direct by law how persons who are now or may hereafter become sureties for public officers may be discharged from such suretyship.

ART. 106. No power of suspending the laws of this State shall be exercised, unless by the legislature, or by its authority.

ART. 107. Prosecutions shall be by indictment or information. The accused shall have a speedy public trial by an impartial jury of the vicinage; he shall not be compelled to give evidence against himself; he shall have the right of being heard by himself or counsel; he shall have the right, unless he shall have fled from justice, of meeting the witnesses face to face, and shall have compulsory process for obtaining witnesses in his favor.

ART. 108. All prisoners shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident or presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

ART. 109. No *ex post facto* law, nor any law impairing the obligation of contracts, shall be passed, nor vested rights be divested, unless for purposes of public utility, and for adequate compensation previously made.

ART. 110. The press shall be free. Every citizen may freely speak, write, and publish his sentiments on all subjects; being responsible for an abuse of this liberty.

ART. 111. Emigration from the State shall not be prohibited.

ART. 112. The general assembly which shall meet after the first election of representatives under this constitution shall, within the first month after the commencement of the session, designate and fix the seat of government at some place not less than sixty miles from the city of New Orleans, by the nearest travelling route, and if on the Mississippi River by the meanders of the same; and, when so fixed, it shall not be removed without the consent of four-fifths of the members of both houses of the general assembly. The sessions shall be held in New Orleans until the end of the year 1848.

ART. 113. The legislature shall not pledge the faith of the State for the payment of any bonds, bills, or other contracts or obligations for the benefit or use of any person or persons, corporation, or body-politic whatever. But the State shall have the right to issue new bonds in payment of its outstanding obligations or liabilities, whether due or not; the said new bonds, however, are not to be issued for a larger amount, or at a higher rate of interest, than the original obligations they are intended to replace.

ART. 114. The aggregate amount of debts hereafter contracted by the legislature shall never exceed the sum of one hundred thousand dollars, except in the case of war, to repel invasions or suppress insurrections, unless the same be authorized by some law, for some single object or work, to be distinctly specified therein; which law shall provide ways and means, by taxation, for the payment of running interest during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity of the capital borrowed; and said law shall be irrepealable until principal and interest are fully paid and discharged, and shall not be put into execution until after its enactment by the first legislature returned by a general election after its passage.

ART. 115. The legislature shall provide by law for a change of venue in civil and criminal cases.

ART. 116. No lottery shall be authorized by this State, and the buying or selling of lottery-tickets within the State is prohibited.

ART. 117. No divorce shall be granted by the legislature.

ART. 118. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title.

ART. 119. No law shall be revised or amended by reference to its title; but in such case, the act revised, or section amended, shall be reënacted and published at length.

ART. 120. The legislature shall never adopt any system or code of laws by general reference to such system or code of laws, but in all cases shall specify the several provisions of the laws it may enact.

ART. 121. The State shall not become subscriber to the stock of any corporation or joint-stock company.

ART. 122. No corporate body shall be hereafter created, renewed, or extended with banking or discounting privileges.

ART. 123. Corporations shall not be created in this State by special laws, except for political or municipal purposes, but the legislature shall provide, by general laws, for the organization of all other corporations, except corporations with banking or discounting privileges, the creation of which is prohibited.

ART. 124. From and after the month of January, 1890, the legislature shall have the power to revoke the charters of all corporations whose charters shall not have expired previous to that time, and no corporations hereafter to be created shall ever endure for a longer term than twenty-five years, except those which are political or municipal.

ART. 125. The general assembly shall never grant any exclusive privilege or monopoly for a longer period than twenty years.

Art. 126. No person shall hold or exercise, at the same time, more than one civil office of emolument, except that of justice of the peace.

Art. 127. Taxation shall be equal and uniform throughout the State. After the year 1848, all property on which taxes may be levied in this State shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property shall be taxed higher than another species of property of equal value, on which taxes shall be levied; the legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade, or profession.

Art. 128. The citizens of the city of New Orleans shall have the right of appointing the several public officers necessary for the administration of the police of the said city, pursuant to the mode of elections which shall be prescribed by the legislature: *Provided,* That the mayor and recorders shall be ineligible to a seat in the general assembly; and the mayor, recorders, and aldermen shall be commissioned by the governor as justices of the peace, and the legislature may vest in them such criminal jurisdiction as may be necessary for the punishment of minor crimes and offences, and as the police and good order of said city may require.

Art. 129. The legislature may provide by law in what cases officers shall continue to perform the duties of their offices until their successors shall have been inducted into office.

Art. 130. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, with a citizen of this State, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, with a citizen of this State, or who shall act as second, or knowingly aid and assist in any manner those thus offending, shall be deprived of holding any office of profit, and of enjoying the right of suffrage under this constitution.

Art. 131. The legislature shall have power to extend this constitution and the jurisdiction of this State over any territory acquired by compact with any State, or with the United States, the same being done by the consent of the United States.

Art. 132. The constitution and laws of this State shall be promulgated in the English and French languages.

TITLE VII.

PUBLIC EDUCATION.

Art. 133. There shall be appointed a superintendent of public education, who shall hold his office for two years. His duties shall be prescribed by law. He shall receive such compensation as the legislature may direct.

Art. 134. The legislature shall establish free public schools throughout the State, and shall provide means for their support by taxation on property, or otherwise.

Art. 135. The proceeds of all lands heretofore granted by the United States to this State for the use or support of schools, and of all lands which may hereafter be granted or bequeathed to the State, and not expressly granted or bequeathed for any other purpose, which hereafter may be disposed of by the State, and the proceeds of the estates of deceased persons to which the State may become entitled by law, shall be held by the State as a loan, and shall be and remain a perpetual fund on which the State shall pay an annual interest of 6 per cent.; which interest, together with all the rents of the unsold lands, shall be appropriated to the support of such schools, and this appropriation shall remain inviolable.

Art. 136. All moneys arising from the sales which have been or may hereafter be made of any lands heretofore granted by the United States to this State, for the use of a seminary of learning, and from any kind of donation that may hereafter be made for that purpose, shall be and remain a perpetual fund, the interest of which, at 6 per cent. per annum, shall be appropriated to the support of a seminary of learning for the promotion of literature and the arts and sciences, and no law shall ever be made diverting said fund to any other use than to the establishment and improvement of said seminary of learning.

Art. 137. A university shall be established in the city of New Orleans. It shall

be composed of four faculties, to wit: One of law, one of medicine, one of the natural sciences, and one of letters.

ART. 138. It shall be called the "University of Louisiana," and the medical college of Louisiana, as at present organized, shall constitute the faculty of medicine.

ART. 139. The legislature shall provide by law for its further organization and government, but shall be under no obligation to contribute to the establishment or support of said university by appropriations.

TITLE VIII.

MODE OF REVISING THE CONSTITUTION.

ART. 140. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives, and if the same shall be agreed to by three-fifths of the members elected to each house, and approved by the governor, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and the secretary of state shall cause the same to be published, three months before the next general election, in at least one newspaper in French and English, in every parish in the State, in which a newspaper shall be published; and if in the legislature next afterwards chosen such proposed amendment or amendments shall be agreed to by a majority of the members elected to each house, the secretary of state shall cause the same again to be published in the manner aforesaid, at least three months previous to the next general election for representatives to the State legislature, and such proposed amendment or amendments shall be submitted to the people at said election; and if a majority of the qualified electors shall approve and ratify such amendment or amendments, the same shall become a part of the constitution. If more than one amendment be submitted at a time, they shall be submitted in such manner and form that the people may vote for or against each amendment separately.

TITLE IX.

SCHEDULE.

ART. 141. The constitution adopted in eighteen hundred and twelve is declared to be superseded by this constitution, and, in order to carry the same into effect, it is hereby declared and ordained as follows:

ART. 142. All rights, actions, prosecutions, claims, and contracts, as well as of individuals as of bodies-corporate, and all laws in force at the time of the adoption of this constitution, and not inconsistent therewith, shall continue as if the same had not been adopted.

ART. 143. Until the first enumeration shall be made as directed in article eighth of this constitution, the parish of Orleans shall have twenty representatives, to be elected as follows, viz:

Eight by the first municipality, seven by the second municipality, and four by the third municipality, to be distributed among the nine representative districts as follows: By allotting to the first district, two; second, two; third, three; fourth, three; fifth, three; sixth, two; seventh, two; eighth, one; ninth, one; and to that part of the parish on the right bank of the Mississippi, one.

The parish of Plaquemines shall have three; Saint Bernard, one; Jefferson, three; Saint Charles, one; Saint John the Baptist, one; Saint James, two; Ascension, two; Assumption, three; La Fourche Interior, three; Terre Bonne, two; Iberville, two; West Baton Rouge, one; East Baton Rouge, three; West Feliciana, two; East Feliciana, three; Saint Helena, one; Washington, one; Livingston, one; Saint Tammany, one; Point Coupee, one; Concordia, one; Tensas, one; Madison, one; Carroll, one; Franklin, one; Saint Mary, two; Saint Martin, three; Vermillion, one; La Fayette, two; Saint Landry, five; Calcasieu, one; Avoyelles, two; Rapides, three; Natchitoches, three; Sabine, two; Caddo, one; De Soto, one; Ouachita, one; Morehouse, one; Union, one; Jackson, one; Caldwell, one; Catahoula, two; Claiborne, two; Bossier, one; total, ninety-eight.

And the State shall be divided into the following senatorial districts: All that portion of the parish of Orleans lying on the east side of the Mississippi River shall compose one senatorial district, and shall elect four senators; the parishes of Plaquemines, Saint Bernard, and that part of the parish of Orleans on the right bank of the river, shall compose one district, with one senator; the parish of Jefferson shall compose one district, with one senator; the parishes of Saint Charles and Saint John the Baptist shall compose one district, with one senator; the parish of Saint James shall compose one district, with one senator; the parish of Ascension shall compose one district, with one senator; the parishes of Assumption, La Fourche Interior, and Terre Bonne, shall compose one district, with two senators; the parishes of Iberville and West Baton Rouge shall compose one district, with one senator; the parish of East Baton Rouge shall compose one district, with one senator; the parish of Point Coupee shall compose one district, with one senator; the parish of Avoyelles shall compose one district, with one senator; the parish of Saint Mary shall compose one district, with one senator; the parish of Saint Martin shall compose one district, with one senator; the parishes of La Fayette and Vermillion shall compose one district, with one senator; the parishes of Saint Landry and Calcasieu shall compose one district, with two senators; the parish of West Feliciana shall compose one district, with one senator; the parish of East Feliciana shall compose one district, with one senator; the parishes of Saint Helena and Livingston shall compose one district, with one senator; the parishes of Washington and Saint Tammany shall compose one district, with one senator; the parishes of Concordia and Tensas shall compose one district, with one senator; the parishes of Carroll and Madison shall compose one district, with one senator; the parishes of Jackson, Union, Morehouse, and Ouachita shall compose one district, with one senator; the parishes of Caldwell, Franklin, and Catahoula shall compose one district, with one senator; the parish of Rapides shall compose one district, with one senator; the parishes of Bossier and Claiborne shall compose one district, with one senator; the parish of Natchitoches shall compose one district, with one senator; the parishes of Sabine, De Soto, and Caddo shall compose one district, with one senator.

ART. 144. In order that no inconvenience may result to the public service from the taking effect of this constitution, no office shall be superseded thereby, but the laws of the State relative to the duties of the several officers, executive, judicial, and military, shall remain in full force, though the same be contrary to this constitution, and the several duties shall be performed by the respective officers of the State, according to the existing laws, until the organization of the government under this constitution, and the entering into office of the new officers, to be appointed under said government, and no longer.

ART. 145. Appointments to office by the executive under this constitution shall be made by the governor to be elected under its authority.

ART. 146. The provisions of article twenty-eight, concerning the inability of members of the legislature to hold certain offices therein mentioned, shall not be held to apply to the members of the first legislature elected under this constitution.

ART. 147. The time of service of all officers chosen by the people, at the first election under this constitution, shall terminate as though the election had been holden on the first Monday of November, 1845, and they had entered on the discharge of their duties at the time designated therein.

ART. 148. The legislature shall provide for the removal of all causes now pending in the supreme or other courts of the State, under the constitution of 1812, to courts created by this constitution.

ART. 149. Appeals to the supreme court from the parishes of Jackson, Union, Morehouse, Catahoula, Caldwell, Ouachita, Franklin, Carroll, Madison, Tensas, and Concordia, shall, until otherwise provided for, be returnable to New Orleans.

TITLE X.

ORDINANCE.

ART. 150. Immediately after the adjournment of the convention, the governor shall issue his proclamation, directing the several officers of this State, authorized by

law to hold elections for members of the general assembly, to open and hold a poll in every parish of the State, at the places designated by law, upon the first Monday of November next, for the purpose of taking the sense of the good people of this State in regard to the adoption or rejection of this constitution; and it shall be the duty of the said officers to receive the votes of all persons entitled to vote under the old constitution, and under this constitution. Each voter shall express his opinion by depositing in the ballot-box a ticket whereon shall be written "The constitution accepted," or "The constitution rejected," or some such words as will distinctly convey the intention of the voter. At the conclusion of the said election, which shall be conducted in every respect as the general State election is now conducted, the parish judges and commissioners designated to preside over the same shall carefully examine and count each ballot so deposited, and shall forthwith make due returns thereof to the secretary of state, in conformity to the provisions of the existing law upon the subject of elections.

ART. 151. Upon the receipt of the said returns, or on the first Monday of December, if the returns be not sooner received, it shall be the duty of the governor, the secretary of state, the attorney-general, and the State treasurer, in the presence of all such persons as may choose to attend, to compare the votes given at the said poll, for the ratification and rejection of this constitution, and if it shall appear from said returns that a majority of all the votes given are for ratifying this constitution, then it shall be the duty of the governor to make proclamation of that fact, and thenceforth this constitution shall be ordained and established as the constitution of the State of Louisiana. But whether this constitution be accepted or rejected, it shall be the duty of the governor to cause to be published in the State paper the result of the polls, showing the number of votes cast in each parish for and against the said constitution.

ART. 152. Should this constitution be accepted by the people, it shall also be the duty of the governor forthwith to issue his proclamation, declaring the present legislature, elected under the old constitution, to be dissolved, and directing the several officers of the State, authorized by law to hold elections for members of the general assembly, to hold an election at the places designated by law, upon the third Monday in January next, (1846,) for governor, lieutenant-governor, members of the general assembly, and all other officers whose election is provided for pursuant to the provisions of this constitution. And the said election shall be conducted, and the returns thereof made, in conformity with the existing laws upon the subject of State elections.

ART. 153. The general assembly elected under this constitution shall convene at the State-house, in the city of New Orleans, upon the second Monday of February next (1846) after the elections; and that the governor and lieutenant-governor, elected at the same time, shall be duly installed in office during the first week of their session, and before it shall be competent for the said general assembly to proceed with the transaction of business.

JOSEPH WALKER, *President.*

HORATIO DAVIS, *Secretary.*

CONSTITUTION OF LOUISIANA—1852.*

PREAMBLE.

We, the people of the State of Louisiana, do ordain and establish this constitution.

TITLE I.

DISTRIBUTION OF POWERS.

ARTICLE 1. The powers of the government of the State of Louisiana shall be divided into three distinct departments, and each of them be confided to a separate

* This constitution was framed by a convention which met at Baton Rouge July 5, 1852, and completed its labors July 31, 1852. It was submitted to the people and ratified November 1, 1852.

body of magistracy, to wit: Those which are legislative to one, those which are executive to another, and those which are judicial to another.

ART. 2. No one of these departments, nor any person holding office in one of them, shall exercise power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

TITLE II.

LEGISLATIVE DEPARTMENT.

ART. 3. The legislative power of the State shall be vested in two distinct branches, the one to be styled "the house of representatives," the other "the senate," and both "the general assembly of the State of Louisiana."

ART. 4. The members of the house of representatives shall continue in service for the term of two years from the day of the closing of the general elections.

ART. 5. Representatives shall be chosen on the first Monday in November every two years; and the election shall be completed in one day. The general assembly shall meet annually, on the third Monday in January, unless a different day be appointed by law, and their sessions shall be held at the seat of government.

ART. 6. Every duly-qualified elector under this constitution shall be eligible to a seat in the general assembly: *Provided*, That no person shall be a representative or senator, unless he be, at the time of his election, a duly-qualified voter of the representative or senatorial district from which he is elected.

ART. 7. Elections for members of the general assembly shall be held at the several election-precincts established by law. The legislature may delegate the power of establishing election-precincts to the parochial or municipal authorities.

ART. 8. Representation in the house of representatives shall be equal and uniform, and shall be regulated and ascertained by the total population of each of the several parishes of the State. Each parish shall have at least one representative. No new parish shall be created with a territory less than six hundred and twenty-five square miles, nor with a population less than the full number entitling it to a representative, nor when the creation of such new parish would leave any other parish without the said extent of territory and amount of population.

The first enumeration by the State authorities under this constitution shall be made in the year 1853, the second in the year 1858, the third in the year 1865; after which time the general assembly shall direct in what manner the census shall be taken, so that it be made at least once in every period of ten years, for the purpose of ascertaining the total population in each parish and election-district.

At the first regular session of the legislature after the making of each enumeration, the legislature shall apportion the representation among the several parishes and election-districts on the basis of the total population as aforesaid. A representative number shall be fixed, and each parish and election-district shall have as many representatives as its aggregate population shall entitle it to, and an additional representative for any fraction exceeding one-half the representative number. The number of representatives shall not be more than one hundred nor less than seventy.

Until an apportionment shall be made, and elections held under the same, in accordance with the first enumeration to be made as directed in this article, the representation in the senate and house of representatives shall be and remain as at present established by law.

The limits of the parish of Orleans are hereby extended, so as to embrace the whole of the present city of New Orleans, including that part of the parish of Jefferson formerly known as the city of La Fayette.

All that part of the parish of Orleans which is situated on the left bank of the Mississippi River, shall be divided by the legislature into not more than ten representative districts, and until a new apportionment shall be made according to the first census to be taken under this constitution, that part of the city of New Orleans which was comprised within the former limits of the city of La Fayette shall vote for senators from the parish of Orleans, and form the tenth representative district, and shall elect two out of the three representatives now apportioned by law to the

parish of Jefferson; the other representative districts shall remain as they are now established.

ART. 9. The house of representatives shall choose its speaker and other officers.

ART. 10. Every free white male who has attained the age of twenty-one years, and who has been a resident of the State twelve months next preceding the election, and the last six months thereof in the parish in which he offers to vote, and who shall be a citizen of the United States, shall have the right of voting, but no voter, on removing from one parish to another within the State, shall lose the right of voting in the former until he shall have acquired it in the latter. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest, during their attendance at, going to, or returning from elections.

ART. 11. The legislature shall provide by law that the names and residence of all qualified electors of the city of New Orleans shall be registered, in order to entitle them to vote; but the registry shall be free of cost to the elector.

ART. 12. No soldier, seaman, or marine in the Army or Navy of the United States, no pauper, no person under interdiction, nor under conviction of any crime punishable with hard labor, shall be entitled to vote at any election in this State.

ART. 13. No person shall be entitled to vote at any election held in this State except in the parish of his residence, and in cities and towns divided into election-precincts, in the election-precinct in which he resides.

ART. 14. The members of the senate shall be chosen for the term of four years. The senate, when assembled, shall have the power to choose its officers.

ART. 15. The legislature, in every year in which they shall apportion representation in the house of representatives, shall divide the State into senatorial districts. No parish shall be divided in the formation of a senatorial district, the parish of Orleans excepted. And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of its territory was taken, or to another contiguous district, at the discretion of the legislature; but shall not be attached to more than one district. The number of senators shall be thirty-two, and they shall be apportioned among the senatorial districts according to the total population contained in the several districts: *Provided*, That no parish shall be entitled to more than five senators.

ART. 16. In all apportionments of the senate, the population of the city of New Orleans shall be deducted from the population of the whole State, and the remainder of the population divided by the number twenty-seven, and the result produced by this division shall be the senatorial ratio entitling a senatorial district to a senator. Single or contiguous parishes shall be formed into districts, having a population the nearest possible to the number entitling a district to a senator; and if, in the apportionment to be made, a parish or district fall short of or exceed the ratio one-fifth, then a district may be formed having not more than two senators, but not otherwise. No new apportionment shall have the effect of abridging the term of service of any senator already elected at the time of making the apportionment. After an enumeration has been made as directed in the eighth article, the legislature shall not pass any law until an apportionment of representation in both houses of the general assembly be made.

ART. 17. At the first session of the general assembly after this constitution takes effect, the senators shall be equally divided by lot into two classes; the seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; so that one-half shall be chosen every two years, and a rotation thereby kept up perpetually. In case any district shall have elected two or more senators, said senators shall vacate their seats respectively at the end of two and four years, and lots shall be drawn between them.

ART. 18. The first election for senators shall be general throughout the State, and at the same time that the general election for representatives is held; and thereafter there shall be biennial elections to fill the places of those whose time of service may have expired.

ART. 19. Not less than a majority of the members of each house of the general assembly shall form a quorum to do business, but a smaller number may adjourn

from day to day, and shall be authorized by law to compel the attendance of absent members.

ART. 20. Each house of the general assembly shall judge of the qualification, election, and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

ART. 21. Each house of the general assembly may determine the rules of its proceedings, punish a member for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offence.

ART. 22. Each house of the general assembly shall keep and publish a weekly journal of its proceedings, and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal.

ART. 23. Each house may punish by imprisonment any person, not a member, for disrespectful and disorderly behavior in its presence, or for obstructing any of its proceedings. Such imprisonment shall not exceed ten days for any one offence.

ART. 24. Neither house, during the sessions of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

ART. 25. The members of the general assembly shall receive from the public treasury a compensation for their services, which shall be four dollars per day during their attendance, going to and returning from the session of their respective houses. The compensation may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the house of representatives by whom such alteration shall have been made. No session shall extend to a period beyond sixty days, to date from its commencement, and any legislative action had after the expiration of the said sixty days shall be null and void. This provision shall not apply to the first legislature which is to convene after the adoption of this constitution.

ART. 26. The members of the general assembly shall in all cases, except treason, felony, breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and going to or returning from the same, and for any speech or debate in either house they shall not be questioned in any other place.

ART. 27. No senator or representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this State, which shall have been created or the emoluments of which shall have been increased during the time such senator or representative was in office, except to such offices or appointments as may be filled by the elections of the people.

ART. 28. No person who at any time may have been a collector of taxes, whether State, parish, or municipal, or who may have been otherwise intrusted with public money, shall be eligible to the general assembly, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been intrusted.

ART. 29. No bill shall have the force of a law until, on three several days, it be read over in each house of the general assembly, and free discussion allowed thereon, unless, in case of urgency, four-fifths of the house where the bill shall be pending may deem it expedient to dispense with this rule.

ART. 30. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as in other bills, provided they shall not introduce any new matter under color of an amendment which does not relate to raising revenue.

ART. 31. The general assembly shall regulate by law by whom and in what manner writs of elections shall be issued to fil the vacancies which may happen in either branch thereof.

ART. 32. The senate shall vote on the confirmation or rejection of officers, to be appointed by the governor, with the advice and consent of the senate, by yeas and nays, and the names of the senators voting for and against the appointments, respect-

ively, shall be entered on a journal to be kept for that purpose, and made public at the end of each session, or before.

ART. 33. Returns of all elections for members of the general assembly shall be made to the secretary of state.

ART. 34. In the year in which a regular election for a Senator of the United States is to take place, the members of the general assembly shall meet in the hall of the house of representatives, on the Monday following the meeting of the legislature, and proceed to the said election.

TITLE III.

EXECUTIVE DEPARTMENT.

ART. 35. The supreme executive power of the State shall be vested in a chief magistrate, who shall be styled the governor of the State of Louisiana. He shall hold his office during the term of four years, and, together with the lieutenant-governor, chosen for the same term, be elected as follows: The qualified electors for representatives shall vote for a governor and lieutenant-governor, at the time and place of voting for representatives. The returns of every election shall be sealed up and transmitted by the proper returning-officer to the secretary of state, who shall deliver them to the speaker of the house of representatives on the second day of the session of the general assembly then next to be holden. The members of the general assembly shall meet in the house of representatives to examine and count the votes. The person having the greatest number of votes for governor shall be declared duly elected, but if two or more persons shall be equal and highest in the number of votes polled for governor, one of them shall immediately be chosen governor by joint vote of the members of the general assembly. The person having the greatest number of votes for lieutenant-governor shall be lieutenant-governor, but if two or more persons shall be equal and highest in the number of votes polled for lieutenant-governor, one of them shall be immediately chosen lieutenant-governor by joint vote of the members of the general assembly.

ART. 36. No person shall be eligible to the office of governor or lieutenant-governor who shall not have attained the age of twenty-eight years, and been a citizen and a resident within the State for the space of four years next preceding his election.

ART. 37. The governor shall enter on the discharge of his duties on the fourth Monday of January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall be declared duly elected, and shall have taken the oath or affirmation required by the constitution.

ART. 38. The governor shall be ineligible for the succeeding four years after the expiration of the time for which he shall have been elected.

ART. 39. No member of Congress or person holding any office under the United States shall be eligible to the office of governor or lieutenant-governor.

ART. 40. In case of the impeachment of the governor, his removal from office, death, refusal or inability to qualify, resignation, or absence from the State, the powers and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the governor, absent or impeached, shall return or be acquitted. The legislature may provide by law for the case of removal, impeachment, death, resignation, disability or refusal to qualify of both the governor or lieutenant-governor, declaring what officer shall act as governor, and such officer shall act accordingly until the disability be removed or for the residue of the term.

ART. 41. The lieutenant-governor, or officer discharging the duties of governor, shall, during his administration, receive the same compensation to which the governor would have been entitled had he continued in office.

ART. 42. The lieutenant-governor shall, by virtue of his office, be president of the senate, but shall have only a casting vote therein. Whenever he shall administer the government, or shall be unable to attend as president of the senate, the senators shall elect one of their own members as president of the senate for the time being.

ART. 43. While he acts as president of the senate, the lieutenant-governor shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more.

ART. 44. The governor shall have power to grant reprieves for all offences against the State, and, except in cases of impeachment, shall, with the consent of the senate, have power to grant pardons and remit fines and forfeitures after conviction. In cases of treason he may grant reprieves until the end of the next session of the general assembly, in which the power of pardoning shall be vested.

ART. 45. The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected.

ART. 46. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof, except when they shall be called into the service of the United States.

ART. 47. He shall nominate, and, by and with the advice and consent of the senate, appoint all officers whose offices are established by this constitution, and whose appointment is not therein otherwise provided for: *Provided, however,* That the legislature shall have a right to prescribe the mode of appointment to all other offices established by law.

ART. 48. The governor shall have power to fill vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of the next session, unless otherwise provided for in this constitution; but no person who has been nominated for office, and rejected by the senate, shall be appointed to the same office, during the recess of the senate.

ART. 49. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

ART. 50. He shall, from time to time, give to the general assembly information respecting the situation of the State, and recommend to their consideration such measures as he may deem expedient.

ART. 51. He may, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place, if that should have become dangerous from an enemy or from epidemic; and in case of disagreement between the two houses as to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months.

ART. 52. He shall take care that the laws be faithfully executed.

ART. 53. Every bill which shall have passed both houses shall be presented to the governor; if he approve he shall sign it, if not he shall return it, with his objections, to the house in which it originated, which shall enter the objections at large upon its journal, and proceed to reconsider it; if after such reconsideration two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two-thirds of all the members elected to that house, it shall be a law; but in such cases the vote of both houses shall be determined by yeas and nays; and the names of the members voting for or against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly, by adjournment, prevent its return; in which case it shall be a law, unless sent back within three days after their next session.

ART. 54. Every order, resolution, or vote to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect, be approved by him, or, being disapproved, shall be repassed by two-thirds of the members elected to each house of the general assembly.

ART. 55. There shall be a secretary of state, who shall hold his office during the time for which the governor shall have been elected. The records of the State shall be kept and preserved in the office of the secretary; he shall keep a fair register of the official acts and proceedings of the governor, and, when necessary, shall attest them. He shall, when required, lay the said register, and all papers, minutes, and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law.



ART. 56. There shall be a treasurer of the State, who shall hold his office during the term of two years.

ART. 57. The secretary of state and treasurer of state shall be elected by the qualified electors of the State. And in case of any vacancies caused by the death, resignation, or absence of the treasurer or secretary of state, the governor shall order an election to fill said vacancy.

ART. 58. All commissions shall be in the name and by the authority of the State of Louisiana, and shall be sealed with the State seal and signed by the governor.

ART. 59. The free white men of the State shall be armed and disciplined for its defence; but those who belong to religious societies whose tenets forbid them to carry arms, shall not be compelled so to do, but shall pay an equivalent for personal services.

ART. 60. The militia of the State shall be organized in such manner as may be hereafter deemed most expedient by the legislature.

TITLE IV.

JUDICIARY DEPARTMENT.

ART. 61. The judiciary power shall be vested in a supreme court, in such inferior courts as the legislature may, from time to time, order and establish, and in justices of the peace.

ART. 62. The supreme court, except in the cases hereinafter provided, shall have appellate jurisdiction only; which jurisdiction shall extend to all cases when the matter in dispute shall exceed three hundred dollars; to all cases in which the constitutionality or legality of any tax, toll, or impost whatsoever, or of any fine, forfeiture, or penalty imposed by a municipal corporation, shall be in contestation; and to all criminal cases on questions of law alone, whenever the offence charged is punishable with death, or imprisonment at hard labor, or when a fine exceeding three hundred dollars is actually imposed. The legislature shall have power to restrict the jurisdiction of the supreme court in civil cases to questions of law only.

ART. 63. The supreme court shall be composed of one chief justice and four associate justices, a majority of whom shall constitute a quorum. The chief justice shall receive a salary of six thousand dollars, and each of the associate judges a salary of five thousand five hundred dollars, annually, until otherwise provided by law. The court shall appoint its own clerks; the judges shall be elected for the term of ten years.

ART. 64. The chief justice shall be elected by the qualified electors of the State. The legislature shall divide the State into four districts, and the qualified electors of each district shall elect one of the associate justices. The State shall be divided into the following districts until the legislature shall otherwise direct:

First district.—The parishes of Plaquemines, Saint Bernard, that portion of the parish of Orleans on the right bank of the Mississippi River, and that portion of the city of New Orleans which lies below the line extending from the river Mississippi, along the middle of Julia street, until it strikes the New Orleans Canal, and thence down said canal to the lake.

Second district.—That portion of the city of New Orleans which is situated above the line extending along the middle of Julia street until it strikes the New Orleans Canal, and thence down said canal to the lake, and the parishes of Jefferson, Saint John the Baptist, Saint Charles, Saint James, Ascension, Assumption, La Fourche Interior, Terre Bonne, West Baton Rouge, and Iberville.

Third district.—The parishes of Saint Tammany, Washington, Livingston, Saint Helena, East Baton Rouge, East Feliciana, West Feliciana, Point Coupee, Avoyelles, Tensas, Concordia, La Fayette, Vermillion, Saint Mary, Saint Martin, and Saint Landry.

Fourth district.—The parishes of Calcasieu, Rapides, Sabine, Natchitoches, De Soto, Caddo, Bossier, Claiborne, Bienville, Caldwell, Union, Ouachita, Morehouse, Jackson, Franklin, Catahoula, Madison, Carroll, and Winn.

ART. 65. The office of one of the associate justices shall be vacated at the expira-

tion of the second year, of another at the expiration of the fourth year, of a third at the expiration of the sixth year, and of the fourth at the expiration of the eighth year; so that one of the judges of the supreme court shall be elected every second year.

ART. 66. The secretary of state, on receiving the official returns of the first election, shall proceed immediately, in the presence and with the assistance of two justices of the peace, to determine by lot among the four candidates having the highest number of votes in the respective districts, which of the associate justices elect shall serve for the term of two years, which shall serve for the term of four years, which for the term of six years, and which for the term of eight years; and the governor shall issue commissions accordingly.

ART. 67. Any vacancy that may occur in the supreme court, from resignation or otherwise, shall be filled by election for the remainder of the unexpired term, but if such remainder do not exceed one year, the vacancy shall be filled by executive appointment.

ART. 68. The supreme court shall hold its sessions in New Orleans from the first Monday of the month of November to the end of the month of June inclusive. The legislature shall have power to fix the sessions elsewhere during the rest of the year; until otherwise provided, the sessions shall be held as heretofore.

ART. 69. The supreme court and each of the judges thereof shall have power to issue writs of *habeas corpus*, at the instance of all persons in actual custody under process, in all cases in which they may have appellate jurisdiction.

ART. 70. No judgment shall be rendered by the supreme court without the concurrence of a majority of the judges comprising the court. Whenever a majority cannot agree, in consequence of the recusation of any member or members of the court, the judges not recused shall have power to call upon any judge or judges of the inferior courts, whose duty it shall be, when so called upon, to sit in the place of the judges recused, and to aid in determining the case.

ART. 71. All judges, by virtue of their office, shall be conservators of the peace throughout the State. The style of all process shall be "The State of Louisiana." All prosecutions shall be carried on in the name and by authority of the State of Louisiana, and conclude "against the peace and dignity of the same."

ART. 72. The judges of all courts within the State shall, as often as it may be possible so to do, in every definitive judgment, refer to the particular law in virtue of which such judgment may be rendered, and in all cases adduce the reasons on which their judgment is founded.

ART. 73. The judges of all courts shall be liable to impeachment, but for any reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of three-fourths of the members present of each house of the general assembly. In every such case the cause or causes for which such removal may be required shall be stated at length in the address, and inserted in the journal of each house.

ART. 74. There shall be an attorney-general for the State, and as many district attorneys as may be hereafter found necessary. They shall hold their offices for four years; their duties shall be determined by law.

ART. 75. The judges, both of the supreme and inferior courts, shall, at stated times, receive a salary, which shall not be diminished during their continuance in office, and they are prohibited from receiving any fees of office, or other compensation than their salaries for any civil duties performed by them.

ART. 76. The legislature shall have power to vest in clerks of courts authority to grant such orders and do such acts as may be deemed necessary for the furtherance of the administration of justice, and in all cases the powers thus granted shall be specified and determined.

ART. 77. The judges of the several inferior courts shall have power to remove the clerks thereof for breach of good behavior; subject in all cases to an appeal to the supreme court.

ART. 78. The jurisdiction of justices of the peace shall be limited in civil cases to cases where the matter in dispute does not exceed one hundred dollars, exclusive of

interest, subject to appeal in such cases as shall be provided for by law. They shall be elected by the qualified electors of each parish, district, or ward, for the term of two years, in such manner and shall have such criminal jurisdiction as shall be provided by law.

ART. 79. Clerks of the inferior courts in this State shall be elected for the term of four years, and should a vacancy occur subsequent to an election, it shall be filled by the judge of the court in which such vacancy exists, and the person so appointed shall hold his office until the next general election.

ART. 80. A sheriff and a coroner shall be elected in each parish by the qualified voters thereof, who shall hold their office for the term of two years, unless sooner removed. The legislature shall have the power to increase the number of sheriffs in any parish. Should a vacancy occur in either of these offices subsequent to an election, it shall be filled by the governor; and the person so appointed shall continue in office until his successor shall be elected and qualified.

ART. 81. The judges of the several inferior courts shall be elected by the duly-qualified voters of their respective districts or parishes.

ART. 82. It shall be the duty of the legislature to fix the time for holding elections for all judges at a time which shall be different from that fixed for all other elections.

ART. 83. The attorney-general shall be elected by the qualified voters of the State, and the district attorney by the qualified voters of each district on the day of the election for governor of the State.

ART. 84. The legislature may determine the mode of filling vacancies in the offices of the inferior judges, attorney-general, district attorneys, and all other officers not otherwise provided for in this constitution.

TITLE V.

IMPEACHMENT.

ART. 85. The power of impeachment shall be vested in the house of representatives.

ART. 86. Impeachments of the governor, lieutenant-governor, attorney-general, secretary of state, State treasurer, and of the judges of the inferior courts, justices of the peace excepted, shall be tried by the senate; the chief justice of the supreme court, or the senior judge thereof, shall preside during the trial of such impeachment. Impeachments of the judges of the supreme court shall be tried by the senate. When sitting as a court of impeachment, the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present.

ART. 87. Judgments in cases of impeachment shall extend only to removal from office and disqualification from holding any office of honor, trust, or profit under the State; but the convicted parties shall, nevertheless, be subject to indictment, trial, and punishment, according to law.

ART. 88. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of their functions during the pendency of such impeachment; the appointing power may make a provisional appointment to replace any suspended officer until the decision of the impeachment.

ART. 89. The legislature shall provide by law for the trial, punishment, and removal from office of all other officers of the State by indictment or otherwise.

TITLE VI.

GENERAL PROVISIONS.

ART. 90. Members of the general assembly, all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation:

"I [A. B.] do solemnly swear [or affirm] that I will support the constitution of the United States and of this State, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding, agreeably to the constitution and laws of the United



States, and of this State; and I do further solemnly swear [or affirm] that since the adoption of the present constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within the State, nor out of it, with a citizen of this State, nor have I sent or accepted a challenge to fight a duel with deadly weapons with a citizen of this State, nor have I acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending: So help me God."

ART. 91. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

ART. 92. Every person shall be disqualified from holding any office of trust or profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

ART. 93. Laws shall be made to exclude from office, and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practice.

ART. 94. No money shall be drawn from the treasury but in pursuance of specific appropriation made by law, nor shall any appropriation of money be made for a longer term than two years. A regular statement and account of the receipts and expenditures of all public moneys shall be published annually, in such manner as shall be prescribed by law.

ART. 95. It shall be the duty of the general assembly to pass such laws as may be proper and necessary to decide differences by arbitration.

ART. 96. All civil officers for the State at large shall reside within the State, and all district or parish officers, within their districts or parishes, and shall keep their offices at such places therein as may be required by law.

ART. 97. All civil officers, except the governor and judges of the supreme and inferior courts, shall be removable by an address of a majority of the members of both houses, except those the removal of whom has been otherwise provided by this constitution.

ART. 98. In all elections by the people the vote shall be by ballot, and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*.

ART. 99. No member of Congress, or person holding or exercising any office of trust or profit under the United States, or either of them, or under any foreign power, shall be eligible as a member of the general assembly, or hold or exercise any office of trust or profit under the State.

ART. 100. The laws, public records, and the judicial and legislative written proceedings of the State shall be promulgated, preserved, and conducted in the language in which the Constitution of the United States is written.

ART. 101. The secretary of the senate and clerk of the house of representatives shall be conversant with the French and English languages, and members may address either house in French or English language.

ART. 102. No power of suspending the laws of this State shall be exercised, unless by the legislature or by its authority.

ART. 103. Prosecutions shall be by indictment or information. The accused shall have a speedy public trial by an impartial jury of the vicinage; he shall not be compelled to give evidence against himself; he shall have the right of being heard by himself or counsel; he shall have the right of meeting the witnesses face to face, and shall have compulsory process for obtaining witnesses in his favor.

ART. 104. All prisoners shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident or presumption great, or unless after conviction for any offence or crime punishable with death or imprisonment at hard labor. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

ART. 105. No *ex post facto* law, nor any law impairing the obligation of contracts,

shall be passed, nor vested rights be divested, unless for purposes of public utility, and for adequate compensation previously made.

ART. 106. The press shall be free. Every citizen may freely speak, write, and publish his sentiments on all subjects; being responsible for an abuse of this liberty.

ART. 107. The seat of government shall be and remain at Baton Rouge, and shall not be removed without the consent of three-fourths of both houses of the general assembly.

ART. 108. The State shall not subscribe for the stock of, nor make a loan to, nor pledge its faith for the benefit of any corporation or joint-stock company, created or established for banking purposes, nor for other purposes than those described in the following article.

ART. 109. The legislature shall have power to grant aid to companies or associations of individuals, formed for the exclusive purpose of making works of internal improvement, wholly or partially within the State, to the extent only of one-fifth of the capital of such companies, by subscription of stock or loan of money or public bonds; but any aid thus granted shall be paid to the company only in the same proportion as the remainder of the capital shall be actually paid in by the stockholders of the company, and, in case of loan, such adequate security shall be required as to the legislature may seem proper. No corporation or individual association receiving the aid of the State, as herein provided, shall possess banking or discounting privileges.

ART. 110. No liability shall be contracted by the State as above mentioned, unless the same be authorized by some law for some single object or work to be distinctly specified therein, which shall be passed by a majority of the members elected to both houses of the general assembly, and the aggregate amount of debts and liabilities incurred under this and the preceding article shall never, at any one time, exceed eight millions of dollars.

ART. 111. Whenever the legislature shall contract a debt exceeding in amount the sum of one hundred thousand dollars, unless in case of war to repel invasion or suppress insurrection, they shall, in the law creating the debt, provide adequate ways and means for the payment of the current interest and of the principal when the same shall become due. And the said law shall be irrepealable until principal and interest are fully paid and discharged, or unless the repealing law contains some other adequate provision for the payment of the principal and interest of the debt.

ART. 112. The legislature shall provide by law for a change of venue in civil and criminal cases.

ART. 113. No lottery shall be authorized by this State, and the buying or selling of lottery-tickets within the State is prohibited.

ART. 114. No divorce shall be granted by the legislature.

ART. 115. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title.

ART. 116. No law shall be revived or amended by reference to its title; but in such case, the act revived, or section amended, shall be reënacted and published at length.

ART. 117. The legislature shall never adopt any system or code of laws by general reference to such system or code of laws, but in all cases shall specify the several provisions of the laws it may enact.

ART. 118. Corporations with banking or discounting privileges may be either created by special acts, or formed under general laws; but the legislature shall, in both cases, provide for the registry of all bills or notes issued or put in circulation as money, and shall require ample security for the redemption of the same in specie.

ART. 119. The legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any person, association, or corporation issuing bank-notes of any description.

ART. 120. In case of insolvency of any bank or banking association, the bill-holders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

ART. 121. The legislature shall have power to pass such laws as it may deem

expedient for the relief or revival of the Citizens' Bank of Louisiana, and the acts already passed for the same purpose are ratified and confirmed: *Provided,* That the bank is subject to the restrictions contained in articles 119 and 120 of this constitution.

ART. 122. No person shall hold or exercise, at the same time, more than one civil office of emolument, except that of justice of the peace.

ART. 123. Taxation shall be equal and uniform throughout the State. All property on which taxes may be levied in this State shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property shall be taxed higher than another species of property of equal value, on which taxes shall be levied; the legislature shall have power to levy an income-tax, and to tax all persons pursuing any occupation, trade, or profession.

ART. 124. The citizens of the city of New Orleans shall have the right of appointing the several public officers necessary for the administration of the police of the said city, pursuant to the mode of elections which shall be prescribed by the legislature: *Provided,* That the mayor and recorders shall be ineligible to a seat in the general assembly; and the mayor, recorders, aldermen, and assistant aldermen shall be commissioned by the governor as justices of the peace, and the legislature may vest in them such criminal jurisdiction as may be necessary for the punishment of minor crimes and offences, and as the police and good order of said city may require.

ART. 125. The legislature may provide by law in what case officers shall continue to perform the duties of their offices until their successors shall have been inducted into office.

ART. 126. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons with a citizen of this State, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, with a citizen of this State, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall be deprived of holding any office of trust or profit, and of enjoying the right of suffrage under this constitution; and the office of any State officer, member of the general assembly, or of any other person holding office of profit or trust under this constitution, and the laws made in pursuance thereof, shall be, *ipso facto,* vacated by the fact of any such person committing the offence mentioned in this article, and the legislature shall provide by law for the ascertaining and declaration of such forfeiture.

ART. 127. The legislature shall have power to extend this constitution and the jurisdiction of this State over any territory acquired by compact with any State, or with the United States, the same being done by the consent of the United States.

ART. 128. None of the lands granted by Congress to the State of Louisiana for aiding it in constructing the necessary levees and drains, to reclaim the swamp and overflowed lands in this State, shall be diverted from the purposes for which they were granted.

ART. 129. The constitution and laws of this State shall be promulgated in the English and French languages.

TITLE VII.

INTERNAL IMPROVEMENTS.

ART. 130. There shall be a board of public works, to consist of four commissioners. The State shall be divided by the legislature into four districts, containing as nearly as may be an equal number of voters, and one commissioner shall be elected in each district by the legal voters thereof for the term of four years; but, of the first elected, two, to be designated by lot, shall remain in office for two years only.

ART. 131. The general assembly, at its first session after the adoption of this constitution, shall provide for the election and compensation of the commissioners and the organization of the board. The commissioners first elected shall assemble on a day to be appointed by law, and decide by lot the order in which their terms of service shall expire.

ART. 132. The commissioners shall exercise a diligent and faithful supervision of all public works in which the State may be interested, except those made by joint-stock

companies. They shall communicate to the general assembly, from time to time, their views concerning the same, and recommend such measures as they may deem necessary, in order to employ to the best advantage and for the purposes for which they were granted, the swamps and overflowed lands conveyed by the United States to this State. They shall appoint all officers engaged on the public works, and shall perform such other duties as may be prescribed by law.

ART. 133. The commissioners may be removed by the concurrent vote of a majority of all the members elected to each house of the general assembly; but the cause of the removal shall be entered on the journal of each house.

ART. 134. The general assembly shall have power, by a vote of three-fifths of the members elected to each house, to abolish said board, whenever in their opinion a board of public works shall no longer be necessary.

TITLE VIII.

PUBLIC EDUCATION.

ART. 135. There shall be elected a superintendent of public education, who shall hold his office for the term of two years. His duties shall be prescribed by law, and he shall receive such compensation as the legislature may direct: *Provided*, That the general assembly shall have power, by a vote of the majority of the members elected to both houses, to abolish the said office of superintendent of public education whenever in their opinion said office shall be no longer necessary.

ART. 136. The general assembly shall establish free public schools throughout the State; and shall provide for their support by general taxation on property or otherwise; and all moneys so raised or provided shall be distributed to each parish in proportion to the number of free white children between such ages as shall be fixed by the general assembly.

ART. 137. The proceeds of all lands heretofore granted by the United States to this State for the use or support of schools, and of all lands which may hereafter be granted or bequeathed to the State, and not expressly granted or bequeathed for any other purpose, which hereafter may be disposed of by the State, and the proceeds of the estates of deceased persons, to which the State may become entitled by law, shall be held by the State as a loan, and shall be and remain a perpetual fund, on which the State shall pay an annual interest of 6 per cent.; which interest, together with the interest of the trust funds deposited with this State by the United States, under the act of Congress approved June 23, 1836, and all the rents of the unsold lands, shall be appropriated to the support of such schools, and this appropriation shall remain inviolable.

ART. 138. All moneys arising from the sales which have been or may hereafter be made of any lands heretofore granted by the United States to this State, for the use of a seminary of learning, and from any kind of donation that may hereafter be made for that purpose, shall be and remain a perpetual fund, the interest of which, at 6 per cent. per annum, shall be appropriated to the support of a seminary of learning for the promotion of literature and the arts and sciences, and no law shall ever be made diverting said fund to any other use than to the establishment and improvement of said seminary of learning.

ART. 139. The University of Louisiana in New Orleans, as now established, shall be maintained.

ART. 140. The legislature shall have power to pass such laws as may be necessary for the further regulation of the university, and for the promotion of literature and science, but shall be under no obligation to contribute to the support of said university by appropriations.

TITLE IX.

MODE OF REVISING THE CONSTITUTION.

ART. 141. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives, and if the same shall be agreed to by two-thirds of the members elected to each house, such proposed amendment or amend-

ments shall be entered on their journals, with the yeas and nays taken thereon, and the secretary of state shall cause the same to be published, three months before the next general election for representatives of the State legislature, in at least one newspaper, in French and English, in every parish in the State in which a newspaper shall be published; and such proposed amendment or amendments shall be submitted to the people at said election; and if a majority of the voters at said election shall approve and ratify such amendment or amendments, the same shall become a part of the constitution. If more than one amendment be submitted at a time, they shall be submitted in such manner and form that the people may vote for or against each amendment separately.

TITLE X.

SCHEDULE.

ART. 142. The constitution adopted in eighteen hundred and forty-five is declared to be superseded by this constitution, and in order to carry the same into effect, it is hereby declared and ordained as follows:

ART. 143. All rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies-corporate, and all laws in force at the time of the adoption of this constitution, and not inconsistent therewith, shall continue as if the same had not been adopted.

ART. 144. In order that no inconvenience may result to the public service from the taking effect of this constitution, no office shall be superseded thereby; but the laws of the State relative to the duties of the several officers, executive, judicial, and military, shall remain in full force, though the same be contrary to this constitution, and the several duties shall be performed by the respective officers of the State, according to the existing laws, until the organization of the government under this constitution, and the entering into office of the new officers to be appointed under said government, and no longer.

ART. 145. Appointments to office by the executive under this constitution shall be made by the governor to be elected under its authority.

ART. 146. The legislature shall provide for the removal of all causes now pending in the supreme court or other courts of the State, under the constitution of 1845, to courts created by or under this constitution.

ART. 147. The time of service of all officers chosen by the people, at the first election under this constitution, shall terminate as though the election had been holden on the first Monday of November, 1851, and they had entered on the discharge of their duties at the time designated therein. The first-class senators designated in article 17 shall hold their seats until the day of the closing of the general elections in November, 1853, and the second-class until the day of the closing of the general elections in November, 1855.

ART. 148. The first election for judges of the supreme court shall be held on the first Monday of April next, (1853,) and they shall enter into office on the first Monday of May, 1853.

ART. 149. The first term of service of the district attorneys and the clerks of the inferior courts to be ordered and established under this constitution shall be regulated by the term of service of the first governor, so that a new election for these officers shall be held on the first Monday of November, 1855.

TITLE XI.

ORDINANCE.

ART. 150. Immediately after the adjournment of the convention, the governor shall issue his proclamation, directing the several officers of this State authorized by law to hold elections for members of the general assembly, to open and hold a poll in every parish in the State, at the places designated by law, upon the first Tuesday of November next, for the purpose of taking the sense of the good people of this State in regard to the adoption or rejection of this constitution; and it shall be the duty of said officers to receive the votes of all persons entitled to vote under the old

constitution and under this constitution. Each voter shall express his opinion by depositing in a separate box, kept for that purpose, a ticket, whereon shall be written "The constitution accepted," or "The constitution rejected," or some such word as will distinctly convey the intention of the voter. At the conclusion of said election, which shall be conducted in every respect as the general State election is now conducted, the commissioners designated to preside over the same shall carefully examine and count each ballot so deposited, and shall forthwith make due returns thereof to the secretary of state, in conformity to the provisions of the existing law upon the subject of elections.

ART. 151. Upon the receipt of the said returns, or on the fifth Monday of November, if the returns be not sooner received, it shall be the duty of the governor, the secretary of state, the attorney-general, and the state treasurer, in the presence of all such persons as may choose to attend, to compare the votes given at the said poll for the ratification and rejection of this constitution, and if it shall appear from said returns that a majority of all the votes given is for ratifying this constitution, then it shall be the duty of the governor to make proclamation of that fact, and thenceforth this constitution shall be ordained and established as the constitution of the State of Louisiana. But whether this constitution be accepted or rejected, it shall be the duty of the governor to cause to be published in the official paper of the convention the result of the polls, showing the number of votes cast in each parish for and against the said constitution.

ART. 152. Should this constitution be accepted by the people, it shall also be the duty of the governor forthwith to issue his proclamation, declaring the present legislature, elected under the old constitution, to be dissolved, and directing the several officers of the State authorized by law to hold elections for members of the general assembly to hold an election, at the places designated by law, upon the fourth Monday of December next, for governor, lieutenant-governor, members of the general assembly, secretary of state, attorney-general, treasurer, and superintendent of public education; and the said election shall be conducted and the returns thereof made in conformity with existing laws upon the subject of State elections.

ART. 153. The general assembly elected under this constitution shall convene at the State-house, in Baton Rouge, upon the third Monday of January next after the elections, and the governor and lieutenant-governor elected at the same time shall be duly installed in office during the first week of this session, and before it shall be competent for the said general assembly to proceed with the transaction of business.

ART. 154. All the publications herein ordered shall be made in the official journal of the convention.

ART. 155. This constitution shall be published in French and English in the official journal of the convention, from the period of its adjournment until the first Tuesday of November, one thousand eight hundred and fifty-two.

Done at Baton Rouge, July 31, 1852.

DUNCAN F. KENNER, *President.*

J. B. WALTON, *Secretary.*

CONSTITUTION OF LOUISIANA—1861.

[A State convention, which met at New Orleans, passed an ordinance of secession on the 25th of December, 1860, but refused, by a vote of 84 against 45, to submit it to the people. In March, 1861, this convention amended the State constitution of 1852 by inserting the words "Confederate States" in place of "United States," with a few other unimportant changes. These amendments were not submitted to the people.]



CONSTITUTION OF LOUISIANA—1864.*

PREAMBLE.

We, the people of the State of Louisiana, do ordain and establish this constitution:

TITLE I.

EMANCIPATION.

ARTICLE 1. Slavery and involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, are hereby forever abolished and prohibited throughout the State.

ART. 2. The legislature shall make no law recognizing the right of property in man.

TITLE II.

DISTRIBUTION OF POWERS.

ART. 3. The powers of the government of the State of Louisiana shall be divided into three distinct departments, and each of them shall be confined to a separate body of magistracy, to wit: Those which are legislative to one, those which are executive to another, and those which are judicial to another.

ART. 4. No one of these departments, nor any person holding office in one of them, shall exercise power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

TITLE III.

LEGISLATIVE DEPARTMENT.

ART. 5. The legislative power of the State shall be vested in two distinct branches, the one to be styled "the house of representatives," the other "the senate," and both "the general assembly of the State of Louisiana."

ART. 6. The members of the house of representatives shall continue in service for the term of two years from the day of the closing of the general elections.

ART. 7. Representatives shall be chosen on the first Monday in November every two years, and the election shall be completed in one day. The general assembly shall meet annually on the first Monday in January, unless a different day be appointed by law, and their sessions shall be held at the seat of government. There shall also be a session of the general assembly in the city of New Orleans, beginning on the first Monday of October, eighteen hundred and sixty-four; and it shall be the duty of the governor to cause a special election to be held for members of the general assembly, in all the parishes where the same may be held, on the day of the election for ratification or rejection of this constitution, to be valid in case of ratification; and in other parishes or districts he shall cause elections to be held as soon as it may become practicable, to fill the vacancies for such parishes or districts in the general assembly. The term of office of the first general assembly shall expire as though its members had been elected on the first Monday of November, eighteen hundred and sixty-three.

ART. 8. Every duly-qualified elector under this constitution shall be eligible to a seat in the general assembly: *Provided*, That no person shall be a representative or senator unless he be, at the time of his election, a duly-qualified voter of the representative or senatorial district from which he is elected.

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* This constitution was formed by a convention which met at New Orleans (under the auspices of General Banks, then commanding the Military Department of the Gulf,) April 6, 1864, and completed its labors July 23, 1864. It was submitted to the people in September, 1864, and ratified by a vote of 6,836 against 1,566. The State government organized under it was not recognized by Congress.

ART. 9. Elections for the members of the general assembly shall be held at the several election-precincts established by law.

ART. 10. Representation in the house of representatives shall be equal and uniform, and shall be regulated and ascertained by the number of qualified electors. Each parish shall have at least one representative. No new parish shall be created with a territory less than six hundred and twenty-five square miles, nor with a number of electors less than the full number entitling it to a representative; nor when the creation of such new parish would leave any other parish without the said extent of territory and number of electors. The first enumeration by the State authorities, under this constitution, shall be made in the year eighteen hundred and sixty-six; the second in the year eighteen hundred and seventy; the third in the year eighteen hundred and seventy-six; after which time the general assembly shall direct in what manner the census shall be taken, so that it be made at least once in every period of ten years for the purpose of ascertaining the total population, and the number of qualified electors in each parish and election-district; and in case of informality, omission, or error in the census-returns from any district, the legislature shall order a new census taken in such parish or election-district.

ART. 11. At the first session of the legislature after the making of each enumeration, the legislature shall apportion the representation amongst the several parishes and election-districts on the basis of qualified electors, as aforesaid. A representative number shall be fixed, and each parish and election-district shall have as many representatives as the aggregate number of its electors will entitle it to, and an additional representative for any fraction exceeding one-half the representative number. The number of representatives shall not be more than one hundred and twenty, nor less than ninety.

ART. 12. Until an apportionment shall be made, and elections held under the same, in accordance with the first enumeration to be made, as directed in article ten, the representation in the senate and house of representatives shall be as follows:

For the parish of Orleans, forty-four representatives, to be elected as follows: First representative district, three; second representative district, five; third representative district, seven; fourth representative district, three; fifth representative district, four; sixth representative district, two; seventh representative district, three; eighth representative district, three; ninth representative district, four; tenth representative district, eight; Orleans, right bank, two.

For the parish of Livingston, one;
For the parish of Saint Tammany, one;
For the parish of Point Coupee, one;
For the parish of Saint Martin, two;
For the parish of Concordia, one;
For the parish of Madison, one;
For the parish of Franklin, one;
For the parish of Saint Mary, one;
For the parish of Jefferson, three;
For the parish of Plaquemines, one;
For the parish of Saint Bernard, one;
For the parish of Saint Charles, one;
For the parish of Saint John the Baptist, one;
For the parish of Saint James, one;
For the parish of Ascension, one;
For the parish of Assumption, three;
For the parish of La Fourche, three;
For the parish of Terre Bonne, two;
For the parish of Iberville, one;
For the parish of West Baton Rouge, one;
For the parish of East Baton Rouge, two;
For the parish of West Feliciana, one;
For the parish of East Feliciana, one;
For the parish of Washington, one;

For the parish of Saint Helena, one;
For the parish of Vermillion, one;
For the parish of La Fayette, two;
For the parish of Saint Landry, four;
For the parish of Calcasieu, two;
For the parish of Avoyelles, two;
For the parish of Rapides, three;
For the parish of Natchitoches, two;
For the parish of Sabine, one;
For the parish of Caddo, two;
For the parish of De Soto, two;
For the parish of Ouachita, one;
For the parish of Union, two;
For the parish of Morehouse, one;
For the parish of Jackson, two;
For the parish of Caldwell, one:
For the parish of Catahoula, two;
For the parish of Claiborne, three;
For the parish of Bossier, one;
For the parish of Bienville, two;
For the parish of Carroll, one;
For the parish of Tensas, one;
For the parish of Winn, two;
Total, one hundred and eighteen.

And the State shall be divided into the following senatorial districts: All that portion of the parish of Orleans lying on the left bank of the Mississippi River shall be divided into two senatorial districts; the first and fourth districts of the city of New Orleans shall compose one district, and shall elect five senators; and the second and third districts of said city shall compose the other district, and shall elect four senators.

The parishes of Plaquemines, Saint Bernard, and all that part of the parish of Orleans on the right bank of the Mississippi River, shall form one district, and shall elect one senator.

The parish of Jefferson shall form one district, and shall elect one senator.

The parishes of Saint Charles and La Fourche shall form one district, and shall elect one senator.

The parishes of Saint John the Baptist and Saint James shall form one district, and shall elect one senator.

The parishes of Ascension, Assumption, and Terre Bonne shall form one district, and shall elect two senators.

The parish of Iberville shall form one district, and shall elect one Senator.

The parish of East Baton Rouge shall form one district, and shall elect one senator.

The parishes of West Baton Rouge, Point Coupee, and West Feliciana shall form one district, and shall elect two senators.

The parish of East Feliciana shall form one district, and shall elect one senator.

The parishes of Washington, Saint Tammany, Saint Helena, and Livingston shall form one district, and shall elect one senator.

The parishes of Concordia and Tensas shall form one district, and shall elect one senator.

The parishes of Madison and Carroll shall form one district, and shall elect one senator.

The parishes of Morehouse, Ouachita, Union, and Jackson shall form one district, and shall elect two senators.

The parishes of Catahoula, Caldwell, and Franklin shall form one district, and shall elect one senator.

The parishes of Bossier, Bienville, Claiborne, and Winn shall form one district, and shall elect two senators.

The parishes of Natchitoches, Sabine, De Soto, and Caddo shall form one district, and shall elect two senators.

The parishes of Saint Landry, La Fayette, and Calcasieu shall from one district, and shall elect two senators.

The parishes of Saint Martin and Vermillion shall form one district, and shall elect one senator.

The parish of Saint Mary shall form one district, and shall elect one senator.

The parishes of Rapides and Avoyelles shall form one district, and shall elect two senators.

ART. 13. The house of representatives shall choose its speaker and other officers.

ART. 14. Every white male, who has attained the age of twenty-one years, and who has been a resident of the State twelve months next preceding the election, and the last three months thereof in the parish in which he offers to vote, and who shall be a citizen of the United States, shall have the right of voting.

ART. 15. The legislature shall have power to pass laws extending suffrage to such other persons, citizens of the United States, as by military service, by taxation to support the government, or by intellectual fitness, may be deemed entitled thereto.

ART. 16. No voter, on removing from one parish to another within the State, shall lose the right of voting in the former until he shall have acquired it in the latter. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at, going to, or returning from elections.

ART. 17. The legislature shall provide by law that the names and residence of all qualified electors shall be registered in order to entitle them to vote; but the registry shall be free of cost to the elector.

ART. 18. No pauper, no person under interdiction, nor under conviction of any crime punishable with hard labor, shall be entitled to vote at any election in this State.

ART. 19. No person shall be entitled to vote at any election held in this State except in the parish of his residence, and, in cities and towns divided into election-precincts, in the election-precinct in which he resides.

ART. 20. The members of the Senate shall be chosen for the term of four years. The senate, when assembled, shall have the power to choose its own officers.

ART. 21. The legislature, in every year in which they apportion representation in the house of representatives, shall divide the State into senatorial districts.

ART. 22. No parish shall be divided in the formation of a senatorial district, the parish or Orleans excepted. And whenever a new parish shall be created, it shall be attached to the senatorial district from which most of its territory was taken, or to another contiguous district, at the discretion of the legislature, but shall not be attached to more than one district. The number of senators shall be thirty-six; and they shall be apportioned among the senatorial districts according to the electoral population contained in the several districts; *Provided*, That no parish be entitled to more than nine senators.

ART. 23. In all apportionments of the senate, the electoral population of the whole State shall be divided by the number thirty-six, and the result produced by this division shall be the senatorial ratio entitling a senatorial district to a senator. Single or contiguous parishes shall be formed into districts, having a population the nearest possible to the number entitling a district to a senator; and if the apportionment to make a parish or district fall short of or exceed the ratio, then a district may be formed having not more than two senators, but not otherwise. No new apportionment shall have the effect of abridging the term of service of any senator already elected at the time of making the apportionment. After an enumeration has been made, as directed in the tenth article, the legislature shall not pass any law until an apportionment of representation in both houses of the general assembly be made.

ART. 24. At the first session of the general assembly, after this constitution takes effect, the senators shall be equally divided by lot into two classes; the seats of the senators of the first class shall be vacated at the expiration of the term of the first house of representatives; of the second class, at the expiration of the term of the second house of representatives; so that one-half shall be chosen every two years.

and a rotation thereby kept up perpetually. In case any district shall have elected two or more senators, said senators shall vacate their seats respectively at the end of the term aforesaid, and lots shall be drawn between them.

ART. 25. The first election for senators shall be held at the same time that the election for representatives is held; and thereafter there shall be elections of senators at the same time with each general election of representatives, to fill the places of those senators whose term of service may have expired.

ART. 26. Not less than a majority of the members of each house of the general assembly shall form a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized by law to compel the attendance of absent members.

ART. 27. Each house of the general assembly shall judge of the qualifications, elections, and return of its members; but a contested election shall be determined in such a manner as shall be directed by law.

ART. 28. Each house of the general assembly may determine the rules of its proceeding, punish a member for disorderly behavior, and, with a concurrence of two-thirds, expel a member; but not a second time for the same offence.

ART. 29. Each house of the general assembly shall keep and publish weekly a journal of its proceedings; and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal.

ART. 30. Each house may punish, by imprisonment, any person, not a member, for disrespectful and disorderly behavior in its presence, or for obstructing any of its proceedings. Such imprisonment shall not exceed ten days for any one offence.

ART. 31. Neither house, during the sessions of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

ART. 32. The members of the general assembly shall receive from the public treasury a compensation for their services, which shall be eight dollars per day during their attendance, going to, and returning from the sessions of their respective houses. The compensation may be increased or diminished by law, but no alteration shall take effect during the period of service of the members of the house of representatives by whom such alteration shall have been made. No session shall extend to a period beyond sixty days, to date from its commencement, and any legislative action had after the expiration of the said sixty days shall be null and void. This provision shall not apply to the first legislature which is to convene after the adoption of this constitution.

ART. 33. The members of the general assembly shall, in all cases, except treason, felony, breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and going to or returning from the same; and for any speech or debate in either house shall not be questioned in any other place.

ART. 34. No senator or representative shall, during the term for which he was elected, nor for one year thereafter, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during the time such senator or representative was in office, except to such offices as may be filled by the election of the people.

ART. 35. No person who at any time may have been a collector of taxes, whether State, parish, or municipal, or who may have been otherwise intrusted with public money, shall be eligible to the general assembly, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been intrusted.

ART. 36. No person while he continues to exercise the functions of a clergyman of any religious denomination whatever shall be eligible to the general assembly.

ART. 37. No bill shall have the force of a law until, on three several days, it be read over in each house of the general assembly, and free discussion allowed thereon; unless, in case of urgency, four-fifths of the house where the bill shall be pending may deem it expedient to dispense with this rule.

ART. 38. All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in other bills: *Provided*, They shall not

introduce any new matter, under the color of an amendment, which does not relate to raising revenue.

ART. 39. The general assembly shall regulate, by law, by whom, and in what manner, writs of election shall be issued to fill the vacancies which may happen in either branch thereof.

ART. 40. The senate shall vote on the confirmation or rejection of the officers to be appointed by the governor, with the advice and consent of the senate, by yeas and nays; and the names of the senators voting for and against the appointments, respectively, shall be entered on a journal to be kept for that purpose, and made public at the end of each session, or before.

ART. 41. Returns of all elections for members of the general assembly shall be made to the secretary of state.

ART. 42. In the year in which a regular election for a Senator of the United States is to take place, the members of the general assembly shall meet in the hall of the house of representatives on the second Monday following the meeting of the legislature, and proceed to said election.

TITLE IV.

EXECUTIVE DEPARTMENT.

ART. 43. The supreme executive power of the State shall be vested in a chief magistrate, who shall be styled the governor of the State of Louisiana. He shall hold his office during the term of four years, and, together with the lieutenant-governor chosen for the same term, be elected as follows: The qualified electors for representatives shall vote for governor and lieutenant-governor at the time and place of voting for representatives; the returns of every election shall be sealed up and transmitted by the proper returning-officer to the secretary of state, who shall deliver them to the speaker of the house of representatives on the second day of the session of the general assembly then to be holden. The members of the general assembly shall meet in the house of representatives to examine and count the votes. The person having the greatest number of votes for governor shall be declared duly elected; but if two or more persons shall be equal and the highest in the number of votes polled for governor, one of them shall immediately be chosen governor by joint vote of the members of the general assembly. The person having the greatest number of votes polled for lieutenant-governor shall be lieutenant-governor; but if two or more persons shall be equal and highest in the number of votes polled for lieutenant-governor, one of them shall be immediately chosen lieutenant-governor by joint vote of the members of the general assembly.

ART. 44. No person shall be eligible to the office of governor or lieutenant-governor who shall not have attained the age of thirty-five years, and been a citizen and resident within the State for the period of five years next preceding his election.

ART. 45. The governor shall enter on the discharge of his duties on the second Monday of January next ensuing election, and shall continue in office until the Monday next succeeding the day that his successor shall be declared duly elected, and shall have taken the oath or affirmation required by the constitution.

ART. 46. No member of Congress, minister of any religious denomination, or any person holding office under the United States Government, shall be eligible to the office of governor or lieutenant-governor.

ART. 47. In case of impeachment of the governor, his removal from office, death, refusal or inability to qualify, resignation, or absence from the State, the powers and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the governor, absent or impeached, shall return or be acquitted. The legislature may provide by law for the case of removal, impeachment, death, resignation, disability, or refusal to qualify, of both the governor and the lieutenant-governor, declaring what officer shall act as governor, and such officer shall act accordingly, until the disability be removed, or for the remainder of the term.

ART. 48. The lieutenant-governor, or officer discharging the duties of governor, shall, during his administration, receive the same compensation to which the governor would have been entitled had he continued in office.

ART. 49. The lieutenant-governor shall, by virtue of his office, be president of the senate, but shall have only a casting vote therein. Whenever he shall administer the government, or shall be unable to attend as president of the senate, the senators shall elect one of their own members as president of the senate for the time being.

ART. 50. The governor shall receive for his services a compensation of eight thousand dollars per annum, payable quarterly on his own warrant.

ART. 51. The lieutenant-governor shall receive for his services a salary of five thousand dollars per annum, to be paid quarterly.

ART. 52. The governor shall have power to grant reprieves for all offences against the State, and, except in cases of impeachment, shall, with the consent of the senate, have power to grant pardons, remit fines and forfeitures, after conviction. In cases of treason he may grant reprieves until the end of the next session of the general assembly, in which the power of pardoning shall be vested.

ART. 53. He shall be commander-in-chief of the militia of this State, except when they shall be called into the service of the United States.

ART. 54. He shall nominate, and, by and with the advice and consent of the senate, appoint all officers whose offices are established by the constitution, and whose appointments are not herein otherwise provided for: *Provided, however,* That the legislature shall have a right to prescribe the mode of appointment to all other offices established by law.

ART. 55. The governor shall have power to fill vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of the next session thereof, unless otherwise provided for in this constitution; but no person who has been nominated for office and rejected by the senate shall be appointed to the same office during the recess of the senate.

ART. 56. He may require information, in writing, from the officers in the executive department upon any subject relating to the duties of their respective offices.

ART. 57. He shall from time to time give to the general assembly information respecting the situation of the State, and recommend to their consideration such measures as may be deemed expedient.

ART. 58. He may, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place if that should have become dangerous from an enemy, or from epidemic; and, in case of disagreement between the two houses as to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months.

ART. 59. He shall take care that the laws are faithfully executed.

ART. 60. Every bill which shall have passed both houses shall be presented to the governor; if he approves, he shall sign it, if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon its journal, and proceed to consider it; if after such consideration two-thirds of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall be likewise considered, and if approved by two-thirds of the members elected to that house, it shall be a law; but in such cases the vote of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it; unless the general assembly, by adjournment, prevent its return.

ART. 61. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, shall be repassed by two-thirds of the members elected to each house of the general assembly.

ART. 62. There shall be a secretary of state, who shall hold his office during the term for which the governor shall have been elected. The records of the State shall be kept and preserved in the office of the secretary; he shall keep a fair register of the official acts and proceedings of the governor, and, when necessary, shall attest them; he shall,

when required, lay the said register, and all papers, minutes, and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law.

ART. 63. There shall be a treasurer of the State, and an auditor of public accounts, who shall hold their respective offices during the term of four years.

ART. 64. The secretary of state, treasurer of state, and auditor of public accounts shall be elected by the qualified electors of the State; and in case of any vacancy caused by the resignation, death, or absence of the secretary, treasurer, or auditor, the governor shall order an election to fill said vacancy.

ART. 65. The secretary of state, the treasurer, and the auditor shall receive a salary of five thousand dollars per annum each.

ART. 66. All commissions shall be in the name and by the authority of the State of Louisiana, and shall be sealed with the State seal and signed by the governor.

ART. 67. All able-bodied men in the State shall be armed and disciplined for its defence.

ART. 68. The militia of the State shall be organized in such manner as may be hereafter deemed most expedient by the legislature.

TITLE V.

JUDICIARY DEPARTMENT.

ART. 69. The judiciary power shall be vested in a supreme court, in such inferior courts as the legislature may, from time to time, order and establish, and in justices of the peace.

ART. 70. The supreme court, except in cases hereafter provided, shall have appellate jurisdiction only; which jurisdiction shall extend to all cases when the matter in dispute shall exceed three hundred dollars; to all cases in which the constitutionality or legality of any tax, toll, or impost whatsoever, or of any fine, forfeiture, or penalty imposed by a municipal corporation, shall be in contestation; and to all criminal cases on questions of law alone whenever the offence charged is punishable with death or imprisonment at hard labor, or when a fine exceeding three hundred dollars is actually imposed.

ART. 71. The supreme court shall be composed of one chief justice and four associate justices, a majority of whom shall constitute a quorum. The chief justice shall receive a salary of seven thousand five hundred dollars, and each of the associate justices a salary of seven thousand dollars, annually, until otherwise provided by law. The court shall appoint its own clerks.

ART. 72. The supreme court shall hold its sessions in New Orleans, from the first Monday in the month of November to the end of the month of June, inclusive. The legislature shall have the power to fix the sessions elsewhere during the rest of the year; until otherwise provided, the sessions shall be held as heretofore.

ART. 73. The supreme court, and each of the judges thereof, shall have power to issue writs of *habeas corpus*, at the instance of all persons in actual custody under process, in all cases in which they may have appellate jurisdiction.

ART. 74. No judgment shall be rendered by the supreme court without the concurrence of a majority of the judges comprising the court. Whenever the majority cannot agree, in consequence of the recusation of any member of the court, the judges not recused shall have power to call upon any judge or judges of the inferior courts, whose duty it shall be, when so called upon, to sit in the place of the judge or judges recused, and to aid in determining the case.

ART. 75. All judges, by virtue of their office, shall be conservators of the peace throughout the State. The style of all process shall be "The State of Louisiana." All prosecutions shall be carried on in the name and by the authority of the State of Louisiana, and conclude "against the peace and dignity of the same."

ART. 76. The judges of all courts within the State shall, as often as it may be advisable so to do, in every definite judgment, refer to the particular law in virtue of which such judgment may be rendered, and in all cases adduce the reasons on which their judgment is founded.

ART. 77. The judges of all courts shall be liable to impeachment; but for any reason-

able cause, which shall not be sufficient ground for impeachment, the governor shall remove any of them, on the address of a majority of the members elected to each house of the general assembly. In every such case the cause or causes for which such removal may be required shall be stated at length in the address, and inserted in the journal of each house.

ART. 78. The judges both of the supreme and inferior courts shall receive a salary which shall not be diminished during their continuance in office; and they are prohibited from receiving any fees of office or other compensation than their salaries for any civil duties performed by them.

ART. 79. The judges of the supreme court shall be appointed by the governor, by and with the advice and consent of the senate, for a term of eight years; the judges of the inferior courts for a term of six years.

ART. 80. The clerks of the inferior courts shall be elected by the qualified voters of their several districts, and shall hold their offices during a term of four years.

ART. 81. The legislature shall have power to vest in clerks of courts authority to grant such orders and do such acts as may be deemed necessary for the furtherance of the administration of justice, and in all cases the powers thus granted shall be specified and determined.

ART. 82. The jurisdiction of justices of the peace shall not exceed, in civil cases, the sum of one hundred dollars, exclusive of interest, subject to appeal in such cases as shall be provided for by law. They shall be elected by the qualified voters of their several districts, and shall hold their office during a term of two years. They shall have such criminal jurisdiction as shall be provided by law.

ART. 83. There shall be an attorney-general for the State, and as many district attorneys as the legislature shall find necessary. The attorney-general shall be elected every four years by the qualified voters of the State. He shall receive a salary of five thousand dollars per annum, payable, on his own warrant, quarterly. The district attorneys shall be elected by the qualified voters of their respective districts, for a term of four years. They shall receive such salaries as shall be provided by the legislature.

ART. 84. A sheriff and a coroner shall be elected in each parish by the qualified voters thereof, who shall hold their offices for the term of two years. The legislature shall have the power to increase the number of sheriffs in any parish. Should a vacancy occur in either of these offices subsequent to an election, it shall be filled by the governor, and the person so appointed shall continue in office until his successor shall be elected and qualified.

TITLE VI.

IMPEACHMENT.

ART. 85. The power of impeachment shall be vested in the house of representatives.

ART. 86. Impeachments of the governor, lieutenant-governor, attorney-general, secretary of state, state treasurer, auditor of public accounts, and the judges of the inferior courts, justices of the peace excepted, shall be tried by the senate; the chief justice of the supreme court, or the senior judge thereof, shall preside during the trial of such impeachment. Impeachments of the judges of the supreme court shall be tried by the senate. When sitting as a court of impeachment, the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of a majority of the senators elected.

ART. 87. Judgments in case of impeachment shall extend only to removal from office; and disqualification from holding any office of honor, trust, or profit under the State; but the convicted parties shall, nevertheless, be subject to indictment, trial, and punishment, according to law.

ART. 88. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of their functions during the pendency of such impeachment; the appointing power may make a provisional appointment to replace any suspended officer until the decision of the impeachment.

ART. 89. The legislature shall provide by law for the trial, punishment, and removal from office of all other officers of the State by indictment or otherwise.

TITLE VII.

GENERAL PROVISIONS.

ART. 90. Members of the general assembly, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation:

"I [A. B.] do solemnly swear [or affirm] that I will support the Constitution and laws of the United States and of this State, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding: so help me God."

ART. 91. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

ART. 92. The legislature shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted.

ART. 93. Every person shall be disqualified from holding any office of trust or profit in this State, and shall be excluded from the right of suffrage, who shall have been convicted of treason, perjury, forgery, bribery, or other high crimes or misdemeanors.

ART. 94. All penalties shall be proportioned to the nature of the offence.

ART. 95. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

ART. 96. No money shall be drawn from the treasury but in pursuance of specific appropriation made by law; nor shall any appropriation of money be made for a longer term than two years. A regular statement and account of the receipts and expenditures of all public moneys shall be published annually, in such manner as shall be prescribed by law.

ART. 97. It shall be the duty of the general assembly to pass such laws as may be proper and necessary to decide differences by arbitration.

ART. 98. All civil officers for the State at large shall be voters of and reside within the State; and all district or parish officers shall be voters of and reside within their respective districts or parishes, and shall keep their offices at such places therein as may be required by law.

ART. 99. All civil officers shall be removable by an address of a majority of the members elected to both houses, except those the removal of whom has been otherwise provided by this constitution.

ART. 100. In all elections by the people the vote shall be taken by ballot, and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*.

ART. 101. No member of Congress, nor person holding or exercising any office of trust or profit under the United States, or under any foreign power, shall be eligible as a member of the general assembly, or hold or exercise any office of trust or profit under the State.

ART. 102. None but citizens of the United States shall be appointed to any office of trust or profit in this State.

ART. 103. The laws, public records, and the judicial and legislative written proceedings of the State shall be promulgated, preserved, and conducted in the language in which the Constitution of the United States is written.

ART. 104. No power of suspending the laws of the State shall be exercised, unless by the legislature or by its authority.

ART. 105. Prosecutions shall be by indictment or information. The accused shall have a speedy public trial by an impartial jury of the parish in which the offence shall have been committed. He shall not be compelled to give evidence against himself; he shall have the right of being heard, by himself or counsel; he shall have the right of meeting the witnesses face to face, and shall have compulsory process for obtaining witnesses in his favor. He shall not be twice put in jeopardy for the same offence.

Art. 106. All persons shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident or presumption great, or unless after conviction for any offence or crime punishable with death or imprisonment at hard labor. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

Art. 107. Excessive bail shall not be required; excessive fines shall not be imposed, nor cruel and unusual punishments inflicted.

Art. 108. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

Art. 109. No *ex post facto* or retroactive law, nor any law impairing the obligations of contracts, shall be passed, nor vested rights be divested, unless for purposes of public utility and for adequate compensation previously made.

Art. 110. All courts shall be open; and every person, for any injury done him, in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without denial or unreasonable delay.

Art. 111. The press shall be free; every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for an abuse of this liberty.

Art. 112. The legislature shall not have power to grant aid to companies or associations of individuals, except to charitable associations, and to such companies of associations as are and shall be formed for the exclusive purpose of making works of internal improvement, wholly or partially within the State, to the extent only of one-fifth of the capital of such companies, by subscription of stock or loan in money or public bonds; but any aid thus granted shall be paid to the company only in the same proportion as the remainder of the capital shall be actually paid in by the stockholders of the company; and, in case ot oan, such adequate security shall be required as to the legislature may seem proper. No corporation or individual association, receiving the aid of the State as herein provided, shall possess banking or discounting privileges.

Art. 113. No liability shall be contracted by the State as above mentioned, unless the same be authorized by some law for some single object or work, to be distinctly specified therein, which shall be passed by a majority of the members elected to both houses of the general assembly, and the aggregate amount of debts and liabilities incurred under this and the preceding article shall never, at any time, exceed eight millions of dollars.

Art. 114. Whenever the legislature shall contract a debt exceeding in amount the sum of one hundred thousand dollars, unless in case of war, to repel invasion, or suppress insurrection, they shall, in the law creating the debt, provide adequate ways and means for the payment of the current interest and of the principal when the same shall become due. And the said law shall be irrepealable until principal and interest are fully paid and discharged, or unless the repealing law contains some other adequate provision for the payment of the principal and interest of the debt.

Art. 115. The legislature shall provide by law for all change of venue in civil and criminal cases.

Art. 116. The legislature shall have the power to license the selling of lottery-tickets and the keeping of gambling-houses; said houses in all cases shall be on the first floor and kept with open doors; but in all cases not less than ten thousand dollars per annum shall be levied as a license or tax on each vendor of lottery-tickets and on each gambling-house, and five hundred dollars on each tombola.

Art. 117. The legislature may enact general laws regulating the adoption of children, emancipation of minors, changing of names, and the granting of divorces; but no special laws shall be enacted relating to particular or individual cases.

Art. 118. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title.

Art. 119. No law shall be revived or amended by reference to its title; but in such case the act revived or section amended shall be reënacted and published at length.

Art. 120. The legislature shall never adopt any system or code of laws by general

reference to such system or code of laws, but in all cases shall specify the several provisions of the laws it may enact.

ART. 121. Corporations shall not be created in this State by special laws except for political or municipal purposes; but the legislature shall provide by general law for the organization of all other corporations, except corporations with banking or discounting privileges, the creation, renewal, or extension of which is hereby prohibited.

ART. 122. In case of the insolvency of any bank or banking association, the bill-holders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

ART. 123. No person shall hold or exercise at the same time more than one civil office of trust or profit, except that of justice of the peace.

ART. 124. Taxation shall be equal and uniform throughout the State. All property shall be taxed in proportion to its value, to be ascertained as directed by law. The general assembly shall have power to exempt from taxation property actually used for church, school, or charitable purposes. The general assembly shall levy an income-tax upon all persons pursuing any occupation, trade, or calling, and all such persons shall obtain a license, as provided by law. All tax on income shall be *pro rata* on the amount of income or business done.

ART. 125. The legislature may provide by law in what case officers shall continue to perform the duties of their offices until their successors shall have been inducted into office.

ART. 126. The legislature shall have power to extend this constitution and the jurisdiction of this State over any territory acquired by compact with any State, or with the United States, the same being done by consent of the United States.

ART. 127. None of the lands granted by Congress to the State of Louisiana for aiding in constructing the necessary levees and drains to reclaim the swamp and overflowed lands of the State, shall be diverted from the purposes for which they were granted.

ART. 128. The legislature shall pass no law excluding citizens of this State from office for not being conversant with any language except that in which the Constitution of the United States is written.

ART. 129. No liability, either State, parochial, or municipal, shall exist for any debts contracted for or in the interest of the rebellion against the United States Government.

ART. 130. The seat of government shall be and remain at New Orleans, and shall not be removed without the consent of a majority of both houses of the general assembly.

ART. 131. The legislature may determine the mode of filling vacancies in all offices for which provision is not made in this constitution.

ART. 132. The legislature shall pass no law requiring a property qualification for office.

TITLE VIII.

CORPORATION OF THE CITY OF NEW ORLEANS.

ART. 133. The citizens of the city of New Orleans shall have the right of appointing the several public officers necessary for the administration of the police of said city, pursuant to the mode of elections which shall be prescribed by the legislature: *Provided*, That the mayor and recorders shall be ineligible to a seat in the general assembly; and the mayor and recorders shall be commissioned by the governor as justices of the peace, and the legislature may vest in them such criminal jurisdiction as may be necessary for the punishment of minor offences and as the police and good of said city may require.

The city of New Orleans shall maintain a police which shall be uniformed with distinction of grade, to consist of permanent citizens of the State of Louisiana, to be selected by the mayor of the city, and to hold office during good behavior, and removable only by a police commission composed of five citizens, and the mayor, who shall be president of the board. The commission to be appointed by the governor of the State for the term of two years, at a salary of not less than one thousand dollars

per annum; a majority of whom shall remove for delinquencies. Members of the police when removed shall not again be eligible to any position on the police for a term of one year.

Interfering or meddling in elections in any manner will be a sufficient cause for instant dismissal from the police by the board.

The chief of the police shall give a penal bond in the sum of ten thousand dollars; lieutenants of police, five thousand dollars; sergeants and clerks, each three thousand dollars; corporals, two thousand dollars; and privates one thousand dollars; with good and solvent security, as the law directs, for the faithful performance of their duties.

The various officers shall receive a salary of not less than the following rates:

The chief of police, $250 per month; the lieutenants of police, $150 per month; the sergeants of police, $100 per month; the clerks of police, $100 per month; the corporals of police, $90 per month; the privates, (day and night,) each, $80 per month.

TITLE IX.

LABOR ON PUBLIC WORKS.

ART. 134. The legislature may establish the price and pay of foremen, mechanics, laborers, and others employed on the public works of the State or parochial or city governments: *Provided*, That the compensation to be paid all foremen, mechanics, cartmen, and laborers employed on the public works, under the government of the State of Louisiana, city of New Orleans, and the police-juries of the various parishes of the State, shall not be less than as follows, viz: Foremen, $3.50 per day; mechanics, $3 per day; cartmen, $3.50 per day; laborers, $2 per day.

ART. 135. Nine hours shall constitute a day's labor for all mechanics, artisans, and laborers employed on public works.

TITLE X.

INTERNAL IMPROVEMENTS.

ART. 136. There shall be appointed by the governor a State engineer, skilled in the theory and practice of his profession, who shall hold his office at the seat of government for the term of four years. He shall have the superintendence and direction of all public works in which the State may be interested, except those made by joint-stock companies or such as may be under the parochial or city authorities exclusively and not in conflict with the general laws of the State. He shall communicate to the general assembly, through the governor, annually, his views concerning the same, report upon the condition of the public works in progress, recommend such measures as in his opinion the public interest of the State may require, and shall perform such other duties as may be prescribed by law. His salary shall be five thousand dollars per annum, until otherwise provided by law. The mode of appointment, number, and salary of his assistants shall be fixed by law. The State engineer and assistants shall give bonds for the performance of their duties as shall be prescribed by law.

ART. 137. The general assembly may create internal-improvement districts, composed of one or more parishes, and may grant a right to the citizens thereof to tax themselves for their improvements. Said internal-improvement districts, when created, shall have the right to select commissioners, shall have the power to appoint officers, fix their pay, and regulate all matters relative to the improvements of their districts, provided such improvements will not conflict with the general laws of the State.

ART. 138. The general assembly may grant aid to said districts out of the funds arising from the swamp and overflowed lands granted to the State by the United States for that purpose or otherwise.

ART. 139. The general assembly shall have the right of abolishing the office of State engineer, by a majority vote of all the members elected to each branch, and of substituting a board of public works in lieu thereof, should they deem it necessary.

TITLE XI.

PUBLIC EDUCATION.

ART. 140. There shall be elected a superintendent of public education, who shall hold his office for the term of four years. His duties shall be prescribed by law, and he shall receive a salary of four thousand dollars per annum until otherwise provided by law: *Provided*, That the general assembly shall have power by a vote of a majority of the members elected to both houses to abolish the said office of superintendent of public education whenever, in their opinion, said office shall be no longer necessary.

ART. 141. The legislature shall provide for the education of all children of the State, between the ages of six and eighteen years, by maintenance of free public schools by taxation or otherwise.

ART. 142. The general exercises in the common schools shall be conducted in the English language.

ART. 143. A university shall be established in the city of New Orleans. It shall be composed of four faculties, to wit: One of law, one of medicine, one of the natural sciences, and one of letters. The legislature shall provide by law for its organization and maintenance.

ART. 144. The proceeds of all lands heretofore granted by the United States to this State for the use or purpose of the public schools, and of all lands which may hereafter be granted or bequeathed for that purpose, and the proceeds of the estates of deceased persons to which the State may become entitled by law, shall be and remain a perpetual fund on which the State shall pay an annual interest of 6 per cent., which interest, together with the interest of the trust-funds deposited with the State by the United States, under the act of Congress approved June 23, 1836, and all the rents of the unsold lands, shall be appropriated to the purpose of such schools, and the appropriation shall remain inviolable.

ART. 145. All moneys arising from the sales which have been or may hereafter be made of any lands heretofore granted by the United States to this State for the use of a specific seminary of learning, or from any kind of a donation that may hereafter be made for that purpose, shall be and remain a perpetual fund, the interest of which, at 6 per cent. per annum, shall be appropriated to the promotion of literature and the arts and sciences, and no law shall ever be made diverting said funds to any other use than to the establishment and improvement of said seminary of learning; and the general assembly shall have power to raise funds for the organization and support of said seminary of learning in such manner as it may deem proper.

ART. 146. No appropriation shall be made by the legislature for the support of any private school or institution of learning whatever, but the highest encouragement shall be granted to public schools throughout the State.

TITLE XII.

MODE OF REVISING THE CONSTITUTION.

ART. 147. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives, and if the same shall be agreed to by a majority of the members elected to each house, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon. Such proposed amendment or amendments shall be submitted to the people at an election to be ordered by said legislature, and held within ninety days after the adjournment of the same, and after thirty days' publication according to law; and if a majority of the voters at said election shall approve and ratify such amendment or amendments, the same shall become a part of the constitution. If more than one amendment be submitted at a time, they shall be submitted in such manner and form that the people may vote for or against each amendment separately.

TITLE XIII

SCHEDULE.

ART. 148. The constitution adopted in 1852 is declared to be superseded by this constitution; and in order to carry the same into effect, it is hereby declared and ordained as follows:

ART. 149. All rights, actions, prosecutions, claims, and contracts, as well as of individuals as of bodies-corporate, and all laws in force at the time of the adoption of this constitution, and not inconsistent therewith, shall continue as if the same had not been adopted.

ART. 150. In order that no inconvenience may result to the public service from the taking effect of this constitution, no officer shall be superseded thereby; but the laws of this State relative to the duties of the several officers, executive, judicial, and military, except those made void by military authority, and by the ordinance of emancipation, shall remain in full force, though the same be contrary to this constitution, and the several duties shall be performed by the respective officers of the State, according to the existing laws, until the organization of the government under this constitution, and the entering into office of the new officers to be appointed under said government, and no longer.

ART. 151. The legislature shall provide for the removal of all causes now pending in the supreme court or other courts of the State under the constitution of 1852, to courts created by or under this constitution.

TITLE XIV.

ORDINANCE.

ART. 152. Immediately after the adjournment of the convention, the governor shall issue his proclamation directing the several officers of this State, authorized by law to hold elections, or, in default thereof, such officers as he shall designate, to open and hold polls in the several parishes of the State, at the places designated by law, on the first Monday of September, 1864, for the purpose of taking the sense of the good people of this State in regard to the adoption or rejection of this constitution; and it shall be the duty of said officers to receive the suffrages of all qualified voters. Each voter shall express his opinion by depositing in the ballot-box a ticket whereon shall be written "The constitution accepted," or, "The constitution rejected." At the conclusion of the said election, the officers and commissioners appointed to preside over the same shall carefully examine and count each ballot as deposited, and shall forthwith make due return thereof to the secretary of state, in conformity to the provisions of law and usages in regard to elections.

ART. 153. Upon the receipt of said returns, or on the third Monday of September, if the returns be not sooner received, it shall be the duty of the governor, the secretary of state, the attorney-general, and the State treasurer, in the presence of all such persons as may choose to attend, to compare the votes at the said election for the ratification or rejection of this constitution, and if it shall appear at the close that a majority of all the votes given is for ratifying this constitution, then it shall be the duty of the governor to make proclamation of the fact, and thenceforth this constitution shall be ordained and established as the constitution of the State of Louisiana. But whether this constitution be accepted or rejected, it shall be the duty of the governor to cause to be published the result of the polls, showing the number of votes cast in each parish for and against this constitution.

ART. 154. As soon as the general election can be held under this constitution in every parish of the State, the governor shall, by proclamation, or, in case of his failure to act, the legislature shall, by resolution, declare the fact, and order an election to be held on a day fixed in said proclamation or resolution, and within sixty days from the date thereof, for governor, lieutenant-governor, secretary of state, auditor, treasurer, attorney-general, and superintendent of education. The officers so chosen shall, on the fourth Monday after their election, be installed into office; and shall hold their offices for the terms prescribed in this constitution, counting from the

second Monday in January next preceding their entering into office, in case they do not enter into office on that date. The terms of office of the State officers elected on the 22d day of February, 1864, shall expire on the installation of their successors as herein provided for; but under no state of circumstances shall their term of office be construed as extending beyond the length of the terms fixed for said offices in this constitution; and, if not sooner held, the election of their successors shall take place on the first Monday of November, 1867, in all parishes where the same can be held, the officers elected on that date to enter into office on the second Monday in January, 1868.

ART. 155. This constitution shall be published in three papers to be selected by the president of the convention, whereof two shall publish the same in English and French, and one in German, from the period of the adjournment of the convention until the election for ratification or rejection on the first Monday of September, 1864.

E. H. DURELL, *President.*

JNO. E. NEELIS, *Secretary.*

CONSTITUTION OF LOUISIANA—1868.*

PREAMBLE.

We, the people of Louisiana, in order to establish justice, insure domestic tranquillity, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution.

TITLE I.

BILL OF RIGHTS.

ARTICLE 1. All men are created free and equal, and have certain inalienable rights; among these are life, liberty, and the pursuit of happiness. To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

ART. 2. All persons, without regard to race, color, or previous condition, born or naturalized in the United States, and subject to the jurisdiction thereof, and residents of this State for one year, are citizens of this State. The citizens of this State owe allegiance to the United States; and this allegiance is paramount to that which they owe to the State. They shall enjoy the same civil, political, and public rights and privileges, and be subject to the same pains and penalties.

ART. 3. There shall be neither slavery nor involuntary servitude in this State, otherwise than for the punishment of crime, whereof the party shall have been duly convicted.

ART. 4. The press shall be free; every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of this liberty.

ART. 5. The right of the people peaceably to assemble and petition the government, or any department thereof, shall never be abridged.

ART. 6. Prosecutions shall be by indictment or information. The accused shall be entitled to a speedy public trial by an impartial jury of the parish in which the offence was committed, unless the venue be changed. He shall not be compelled to give evidence against himself; he shall have the right of being heard by himself or counsel; he shall have the right of meeting the witnesses face to face, and shall have compulsory process for obtaining witnesses in his favor. He shall not be tried twice for the same offence.

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* This constitution was formed by a convention, called under the reconstruction acts of Congress, which met at New Orleans in December, 1867, and completed its labors March 2, 1868. It was submitted to the people on the 17th and 18th of August, 1868, and ratified by a vote of 66,152 against 48,739.

ART. 7. All persons shall be bailable by sufficient securities, unless for capital offences, where the proof is evident or the presumption great, or unless after conviction for any crime or offence punishable with death or imprisonment at hard labor. The privilege of the writ of *habeas corpus* shall not be suspended.

ART. 8. Excessive bail shall not be required; excessive fines shall not be imposed; nor cruel or unusual punishments inflicted.

ART. 9. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, or the person or things to be seized.

ART. 10. All courts shall be open; and every person for injury done him in his land, goods, person, or reputation, shall have adequate remedy, by due process of law, and justice administered without denial or unreasonable delay.

ART. 11. No law shall be passed fixing the price of manual labor.

ART. 12. Every person has the natural right to worship God according to the dictates of his conscience. No religious test shall be required as a qualification for office.

ART. 13. All persons shall enjoy equal rights and privileges upon any conveyance of a public character; and all places of business, or of public resort, or for which a license is required by either State, parish, or municipal authority, shall be deemed places of a public character, and shall be opened to the accommodation and patronage of all persons, without distinction or discrimination on account of race or color.

ART. 14. The rights enumerated in this title shall not be construed to limit or abridge other rights of the people not herein expressed.

TITLE II.

LEGISLATIVE DEPARTMENT.

ART. 15. The legislative power of the State shall be vested in two distinct branches; the one to be styled the house of representatives, the other the senate; and both, the general assembly of the State of Louisiana.

ART. 16. The members of the house of representatives shall continue in office for two years from the day of the closing of the general elections.

ART. 17. Representatives shall be chosen on the first Monday in November, every two years; and the election shall be completed in one day. The general assembly shall meet annually on the first Monday in January, unless a different day be appointed by law, and their sessions shall be held at the seat of government.

ART. 18. Every elector under this constitution shall be eligible to a seat in the house of representatives; and every elector who has reached the age of twenty-five years shall be eligible to the senate: *Provided*, That no person shall be a representative or senator unless at the time of his election he be a qualified elector of the representative or senatorial district from which he is elected.

ART. 19. Elections for members of the general assembly shall be held at the several election precincts established by law.

ART. 20. Representation in the house of representatives shall be equal and uniform; and, after the first general assembly elected under this constitution, shall be ascertained and regulated by the total population, each parish in the State being entitled to at least one representative. A census of the State by State authority shall be taken in the year eighteen hundred and seventy-five, and every ten years thereafter. In case of informality, omission, or error in the census-returns from any parish or election district, the general assembly may order a new census taken in such parish or election district; but, until the State census of eighteen hundred and seventy-five, the apportionment of the State shall be made on the basis of the census of the United States for the year eighteen hundred and seventy.

ART. 21. The general assembly, at the first session after the making of each enumeration, shall apportion the representation amongst the several parishes and representative districts on the basis of the total population, as aforesaid. A representative number

shall be fixed, and each parish and representative district shall have as many representatives as the number of its total population will entitle it to have, and an additional representative for any fraction exceeding one-half of the representative number. The number of representatives shall never exceed one hundred and twenty, nor be less than ninety.

ART. 22. Until an apportionment shall be made in accordance with the provisions of article twenty, the representation in the senate and house of representatives shall be as follows:

For the parish of Orleans: First representative district, two; second representative district, three; third representative district, four; fourth representative district, two; fifth representative district, two; sixth representative district, one; seventh representative district, two; eighth representative district, one; ninth representative district, two; tenth representative district, three; Orleans, right bank, one.

For the parish of Ascension, two;
For the parish of Assumption, two;
For the parish of Avoyelles, two;
For the parish of Baton Rouge, East, three;
For the parish of Baton Rouge, West, one;
For the parish of Bienville, one;
For the parish of Bossier, two;
For the parish of Caddo, three;
For the parish of Calcasieu, one;
For the parish of Caldwell, one;
For the parish of Carroll, two;
For the parish of Catahoula, one;
For the parish of Claiborne, two;
For the parish of Concordia, two;
For the parish of De Soto, two;
For the parish of Feliciana, East, two;
For the parish of Feliciana, West, one;
For the parish of Franklin, one;
For the parish of Iberville, two;
For the parish of Jackson, one;
For the parish of Jefferson, four;
For the parish of La Fayette, one;
For the parish of La Fourche, two;
For the parish of Livingston, one;
For the parish of Madison, one;
For the parish of Morehouse, one;
For the parish of Natchitoches, two;
For the parish of Ouachita, two;
For the parish of Plaquemines, one;
For the parish of Point Coupee, two;
For the parish of Rapides, three;
For the parish of Sabine, one;
For the parish of Saint Bernard, one;
For the parish of Saint Charles, one;
For the parish of Saint Helena, one;
For the parish of Saint James, two;
For the parish of Saint John Baptist, one;
For the parish of Saint Landry, four;
For the parish of Saint Martin's, two;
For the parish of Saint Mary's, two;
For the parish of Saint Tammany, one:
For the parish of Tensas, two;
For the parish of Terre Bonne, two;
For the parish of Union, one;
For the parish of Vermillion, one;

For the parish of Washington, one;
For the parish of Winn, one;
Total, one hundred and one.

And the State shall be divided into the following senatorial districts, to wit:

The first, second, and third representative districts of New Orleans shall form one senatorial district, and elect three senators;

The fourth, fifth, and six representative districts of New Orleans shall form one district, and elect two senators;

The seventh, eighth, and ninth representative districts of New Orleans and the parish of Saint Bernard shall form one district, and elect two senators;

The tenth representative district of New Orleans shall form one district, and elect one senator;

Orleans, right bank, and the parish of Plaquemines shall form one district, and elect one senator;

The parishes of Jefferson, Saint Charles, and Saint John Baptist shall form one district, and elect two senators;

The parishes of Ascension and Saint James shall form one district, and elect one senator;

The parishes of Assumption, La Fourche, and Terre Bonne shall form one district, and elect two senators;

The parishes of Vermillion and Saint Mary's shall form one district, and elect one senator;

The parishes of Calcasieu, La Fayette, and Saint Landry shall form one district, and elect two senators;

The parishes of Livingston, Saint Helena, Washington, and Saint Tammany shall form one district, and elect one senator;

The parishes of Point Coupee, East Feliciana, and West Feliciana shall form one district, and elect two senators;

The parish of East Baton Rouge shall form one district, and elect one senator;

The parishes of West Baton Rouge, Iberville, and Saint Martin's shall form one district, and elect two senators;

The parishes of Concordia and Avoyelles shall form one district, and elect one senator;

The parishes of Tensas and Franklin shall form one district, and elect one senator;

The parishes of Carroll, Madison, and Morehouse shall form one district, and elect two senators;

The parishes of Ouachita and Caldwell shall form one district, and elect one senator;

The parishes of Jackson and Union shall form one district, and elect one senator;

The parishes of Bossier, Bienville, and Claiborne shall form one district, and elect two senators;

The parish of Caddo shall form one district, and elect one senator;

The parishes of De Soto, Natchitoches, and Sabine shall form one district, and elect two senators;

The parish of Rapides shall form one district, and elect one senator;

The parishes of Catahoula and Winn shall form one district, and elect one senator;

Thirty six senators in all.

ART. 23. The house of representatives shall choose its speaker and other officers.

ART. 24. Electors in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during their attendance on, going to, and returning from elections.

ART. 25. At its first session under this constitution, the general assembly shall provide by law that the names and residence of all qualified electors shall be registered, in order to entitle them to vote; but the registry shall be free of cost to the elector.

ART. 26. No person shall be entitled to vote at any election held in this State, except in the parish of his residence, and at the election-precinct in which he is registered: *Provided*, That no voter, in removing from one parish to another, shall lose the right in the former until he has acquired it in the latter.

ART. 27. The members of the senate shall be elected for the term of four years; and, when assembled, the senate shall have the power to choose its own officers, except as hereinafter provided.

ART. 28. The general assembly shall divide the State into senatorial districts whenever it apportions representation in the house of representatives.

ART. 29. No parish shall be divided in the formation of a senatorial district, the parish of Orleans excepted; and whenever a new parish shall be created, it shall be attached to the senatorial district from which most of its territory is taken, or to another contiguous district, at the discretion of the general assembly; but shall not be attached to more than one district. The number of senators shall be thirty-six, and they shall be apportioned among the senatorial districts according to the total population of said districts.

ART. 30. In all apportionments of the senate, the total population of the State shall be divided by the number thirty-six, and the result produced by this division shall be the senatorial ratio entitling a senatorial district to a senator.

Single or contiguous parishes shall be formed into districts having a population the nearest possible to the number entitling a district to a senator; and if the apportionment to make a parish or district fall short of, or exceed the ratio, then a district may be formed having not more than two senators; but not otherwise. No new apportionment shall have the effect of abridging the term of service of any senator already elected at the time of making the apportionment. After an enumeration has been made, as directed in the twentieth article, the general assembly shall not pass any law till an apportionment of representation in both houses of the general assembly be made.

ART. 31. At the first session of the general assembly, after this constitution goes into effect, the senators shall be divided equally by lot into two classes; the seats of the senators of the first class to be vacated at the expiration of the term of the first house of representatives; those of the second class at the expiration of the term of the second house of representatives, so that one-half shall be chosen every two years successively. When a district shall have elected two senators, their respective terms of office shall be determined by lot between themselves.

ART. 32. The first election for senators shall be held at the same time with the election for representatives; and thereafter there shall be elections of senators at the same time with each general election of representatives, to fill the places of those senators whose term of office may have expired.

ART. 33. Not less than a majority of the members of each house of the general assembly shall form a quorum to transact business; but a smaller number may adjourn from day to day, and shall have full power to compel the attendance of absent members.

ART. 34. Each house of the general assembly shall judge of the qualifications, election, and returns of its members; but a contested election shall be determined in such manner as may be prescribed by law.

ART. 35. Each house of the general assembly may determine the rules of its proceedings, punish a member for disorderly conduct, and, with a concurrence of two-thirds, expel a member, but not a second time for the same offence.

ART. 36. Each house of the general assembly shall keep and publish weekly a journal of its proceedings; and the yeas and nays of the members on any question, at the desire of any two of them, shall be entered on the journal.

ART. 37. Each house may punish, by imprisonment, any person, not a member, for disrespect and disorderly behavior in its presence, or for obstructing any of its proceedings. Such imprisonment shall not exceed ten days for any one offence.

ART. 38. Neither house shall adjourn for more than three days, nor to any other place than that in which it may be sitting, during the sessions of the general assembly, without the consent of the other.

ART. 39. The members of the general assembly shall receive from the public treasury a compensation for their services, which shall be eight dollars per day during their attendance, going to, and returning from the sessions of their respective houses. This compensation may be increased or diminished by law, but no alteration shall take

effect during the period of service of the members of the house of representatives by which such alteration shall have been made. No session shall extend beyond the period of sixty days, to date from its commencement, and any legislative action had after the expiration of said period of sixty days shall be null and void; but the first general assembly that shall convene after the adoption of this constitution may continue in session for one hundred and twenty days.

ART. 40. The members of the general assembly, in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during their attendance at the sessions of their respective houses, and going to or returning from the same; and for any speech or debate in either house shall not be questioned in any other place.

ART. 41. No senator or representative, during the term for which he was elected, nor for one year thereafter, shall be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which may have been increased, during the time such senator or representative was in office.

ART. 42. No bill shall have the force of a law until on three several days it be read in each house of the general assembly, and free discussion allowed thereon, unless four-fifths of the house where the bill is pending may deem it expedient to dispense with this rule.

ART. 43. All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in other bills: *Provided*, It shall not introduce any matter under the color of an amendment which does not relate to raising revenue.

ART. 44. The general assembly shall regulate by whom and in what manner writs of election shall be issued to fill the vacancies which may occur in either branch thereof.

ART. 45. On the confirmation or rejection of the officers to be appointed by the governor, with the advice and consent of the senate, the vote shall be taken by yeas and nays, and the names of the senators voting for and against the appointments respectively shall be entered on the journals to be kept for the purpose, and made public on or before the end of each session.

ART. 46. Returns of all elections for members of the general assembly shall be made to the secretary of state.

ART. 47. In the year in which a regular election for a Senator of the United States is to take place, the members of the general assembly shall meet in the hall of the house of representatives, on the second Monday following the meeting of the general assembly, and proceed to said election.

TITLE III.

EXECUTIVE DEPARTMENTS.

ART. 48. The supreme executive power of the State shall be vested in a chief magistrate, who shall be styled the governor of the State of Louisiana. He shall hold his office during the term of four years, and, together with the lieutenant-governor chosen for the same term, be elected as follows: The qualified electors for representatives shall vote for governor and lieutenant-governor at the time and place of voting for representatives. The returns of every election shall be sealed up and transmitted by the proper returning-officer to the secretary of state, who shall deliver them to the speaker of the house of representatives on the second day of the session of the general assembly then to be holden. The members of the general assembly shall meet in the house of representatives to examine and count the votes. The person having the greatest number of votes for governor shall be declared duly elected; but in case of a tie vote between two or more candidates, one of them shall immediately be chosen governor by joint vote of the members of the general assembly. The person having the greatest number of votes polled for lieutenant-governor shall be lieutenant-governor; but in case of a tie vote between two or more candidates, one of them shall be immediately chosen lieutenant-governor by joint vote of the members of the general assembly.

ART. 49. No person shall be eligible to the office of governor or lieutenant-gov-

ernor who is not a citizen of the United States and a resident of this State two years next preceding his election.

ART. 50. The governor shall be ineligible for the succeeding four years after the expiration of the time for which he shall have been elected.

ART. 51. The governor shall enter on the discharge of his duties on the second Monday in January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall be declared duly elected, and shall have taken the oath or affirmation required by the constitution.

ART. 52. No member of Congress, or any person holding office under the United States Government, shall be eligible to the office of governor or lieutenant-governor.

ART. 53. In case of impeachment of the governor, his removal from office, death, refusal or inability to qualify, or to discharge the powers and duties of his office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the governor absent or impeached shall return or be acquitted, or the disability be removed. The general assembly may provide by law for the case of removal, impeachment, death, resignation, disability, or refusal to qualify, of both the governor and the lieutenant-governor, declaring what officer shall act as governor; and such officer shall act accordingly, until the disability be removed, or for the remainder of the term.

ART. 54. The lieutenant-governor, or officer discharging the duties of governor, shall, during his administration, receive the same compensation to which the governor would have been entitled had he continued in office.

ART. 55. The lieutenant-governor shall, by virtue of his office, be president of the senate, but shall only vote when the senate is equally divided. Whenever he shall administer the government, or shall be unable to attend as president of the senate, the senators shall elect one of their own members as president of the senate for the time being.

ART. 56. The governor shall receive a salary of eight thousand dollars per annum, payable quarterly, on his own warrant.

ART. 57. The lieutenant-governor shall receive a salary of three thousand dollars per annum, payable quarterly, upon his own warrant.

ART. 58. The governor shall have power to grant reprieves for all offences against the State; and, except in cases of impeachment, shall, with the consent of the senate, have power to grant pardons, remit fines and forfeitures, after conviction. In cases of treason, he may grant reprieves until the end of the next session of the general assembly, in which the power of pardoning shall be vested. In cases when the punishment is not imprisonment at hard labor, the party upon being reprieved by the governor shall be released, if in actual custody, until final action by the senate.

ART. 59. He shall be commander-in-chief of the militia of this State, except when they shall be called into the service of the United States.

ART. 60. He shall nominate, and, by and with the advice and consent of the senate, appoint all officers whose offices are established by the constitution, and whose appointments are not herein otherwise provided for: *Provided, however*, That the general assembly shall have a right to prescribe the mode of appointment to all other offices established by law.

ART. 61. The governor shall have power to fill vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of the next session thereof, unless otherwise provided for in this constitution; but no person who has been nominated for office and rejected by the senate shall be appointed to the same office during the recess of the senate.

ART. 62. He may require information in writing from the officers in the executive department upon any subject relating to the duties of their respective offices.

ART. 63. He shall, from time to time, give the general assembly information respecting the situation of the State, and recommend to their consideration such measures as he may deem expedient.

ART. 64. He may, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place if that should have become dangerous from an enemy or from epidemic; and, in case of disagreement between the two houses as

to the time of adjournment, he may adjourn them to such time as he may think proper, not exceeding four months.

ART. 65. He shall take care that the laws be faithfully executed.

ART. 66. Every bill which shall have passed both houses shall be presented to the governor; if he approve, he shall sign it; if he do not, he shall return it, with his objections, to the house in which it originated, which shall enter the objections at large upon its journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of all the members present in that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members present in that house it shall be a law. But in such cases the vote of both houses shall be determined by yeas and nays, and the names of members voting for or against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within five days after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly, by adjournment, prevent its return; in which case the said bill shall be returned on the first day of the meeting of the general assembly after the expiration of said five days, or be a law.

ART. 67. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor; and before it shall take effect be approved by him, or, being disapproved, shall be repassed by two-thirds of the members present.

ART. 68. There shall be a secretary of state, who shall hold his office during the term for which the governor shall have been elected. The records of the State shall be kept and preserved in the office of the secretary; he shall keep a fair register of the official acts and proceedings of the governor, and, when necessary, shall attest them: he shall, when required, lay the said register, and all papers, minutes, and vouchers relative to his office, before either house of the general assembly, and shall perform such other duties as may be enjoined on him by law.

ART. 69. There shall be a treasurer of the State, and an auditor of public accounts, who shall hold their respective offices during the term of four years. At the first election under this constitution the treasurer shall be elected for two years.

ART. 70. The secretary of state, treasurer, and auditor of public accounts shall be elected by the qualified electors of the State; and in case of any vacancy caused by the resignation, death, or absence of the secretary, treasurer, or auditor, the governor shall order an election to fill said vacancies: *Provided*, The unexpired term to be filled be more than twelve months. When otherwise, the governor shall appoint a person to perform the duties of the office thus vacant until the ensuing general election.

ART. 71. The treasurer and the auditor shall receive a salary of five thousand dollars per annum each. The secretary of state shall receive a salary of three thousand dollars per annum.

ART. 72. All commissions shall be in the name and by the authority of the State of Louisiana; and shall be sealed with the State seal, signed by the governor, and countersigned by the secretary of state.

TITLE IV.

JUDICIARY DEPARTMENT.

ART. 73. The judicial power shall be vested in a supreme court, in district courts, in parish courts, and in justices of the peace.

ART. 74. The supreme court, except in cases hereinafter provided, shall have appellate jurisdiction only; which jurisdiction shall extend to all cases when the matter in dispute shall exceed five hundred dollars; and to all cases in which the constitutionality or legality of any tax, toll, or impost of any kind or nature whatsoever, or any fine, forfeiture, or penalty imposed by a municipal corporation, shall be in contestation, whatever may be the amount thereof; and in such cases the appeal shall be direct from the court in which the case originated to the supreme court; and in criminal cases, on questions of law only, whenever the punishment of death or

imprisonment at hard labor, or a fine exceeding three hundred dollars, is actually imposed.

ART. 75. The supreme court shall be composed of one chief justice and four associate justices, a majority of whom shall constitute a quorum. The chief justice shall receive a salary of seven thousand five hundred dollars, and each of the associate justices a salary of seven thousand dollars annually, payable quarterly on their own warrants.. The chief justice and the associate justices shall be appointed by the governor, with the advice and consent of the senate, for the term of eight years. They shall be citizens of the United States, and shall have practised law for five years, the last three thereof next preceding their appointment in the State. The court shall appoint its own clerks, and may remove them at pleasure.

ART. 76. The supreme court shall hold its sessions in the city of New Orleans, from the first Monday in the month of November to the end of the month of May. The general assembly shall have power to fix the sessions elsewhere during the rest of the year. Until otherwise provided, the sessions shall be held as heretofore.

ART. 77. The supreme court, and each of the judges thereof, shall have power to issue writs of *habeas corpus*, at the instance of persons in actual custody, in cases when they may have appellate jurisdiction.

ART. 78. No judgment shall be rendered by the supreme court without a concurrence of a majority composing the court. Whenever the majority cannot concur, in consequence of the recusation of any member of the court, the judges not recused shall have power to call upon any judge or judges of the district courts, whose duty it shall be, when so called upon, to preside in the place of the judge or judges recused, and to aid in determining the case.

ART. 79. All judges, by virtue of their office, shall be conservators of the peace throughout the State. The style of all process shall be "The State of Louisiana." All prosecutions shall be carried on in the name and by the authority of the State of Louisiana, and conclude "against the peace and dignity of the same."

ART. 80. The judges of all courts, whenever practicable, shall refer to the law in virtue of which every definitive judgment is rendered; but in all cases they shall adduce the reasons on which their judgment is founded.

ART. 81. The judges of all courts shall be liable to impeachment for crimes and misdemeanors. For any reasonable cause the governor shall remove any of them, on the address of two-thirds of the members elected to each house of the general assembly. In every such case the cause or causes for which such removal may be required shall be stated at length in the address and inserted in the journal of each house.

ART. 82. No duties or functions shall ever be attached by law to the supreme or district courts, or the several judges thereof, but such as are judicial; and the said judges are prohibited from receiving any fees of office, or other compensation than their salaries, for any official duties performed by them.

ART. 83. The general assembly shall divide the State into judicial districts, which shall remain unchanged for four years, and for each district court one judge, learned in the law, shall be elected for each district by a plurality of the qualified electors thereof. For each district there shall be one district court, except in the parish of Orleans, in which the general assembly may establish as many district courts as the public interests may require. Until otherwise provided, there shall be seven district courts for the parish of Orleans, with the following original jurisdiction: The first, exclusive criminal jurisdiction; the second, exclusive probate jurisdiction; the third, exclusive jurisdiction of appeals from justices of the peace; the fourth, fifth, sixth, and seventh district courts, exclusive jurisdiction in all civil cases, except probate, when the sum in contest is above one hundred dollars, exclusive of interest. These seven courts shall also have such further jurisdiction, not inconsistent herewith, as shall be conferred by law. The number of districts in the State shall not be less than twelve nor more than twenty. The clerks of the district courts shall be elected by the qualified electors of their respective parishes, and shall hold their office for four years.

ART. 84. Each of said judges shall receive a salary to be fixed by law, which shall

not be increased or diminished during his term of office, and shall never be less than five thousand dollars. He must be a citizen of the United States, over the age of twenty-five years, and have resided in the State and practised law therein for the space of two years next preceding his election. The judges of the district courts shall hold their office for the term of four years.

ART. 85. The district courts shall have original jurisdiction in all civil cases when the amount in dispute exceeds five hundred dollars, exclusive of interest. In criminal cases their jurisdiction shall be unlimited. They shall have appellate jurisdiction in civil ordinary suits when the amount in dispute exceeds one hundred dollars, exclusive of interest.

ART. 86. For each parish court one judge shall be elected by the qualified electors of the parish. He shall hold his office for the term of two years. He shall receive a salary and fees to be provided by law. Until otherwise provided, each parish judge shall receive a salary of one thousand two hundred dollars per annum, and such fees as are established by law for clerks of district courts. He shall be a citizen of the United States and of this State.

ART. 87. The parish courts shall have concurrent jurisdiction with the justices of the peace in all cases when the amount in controversy is more than twenty-five dollars and less than one hundred dollars, exclusive of interest. They shall have exclusive original jurisdiction in ordinary suits in all cases when the amount in dispute exceeds one hundred dollars and does not exceed five hundred dollars, subject to an appeal to the district court in all cases when the amount in contestation exceeds one hundred dollars, exclusive of interest. All successions shall be opened and settled in the parish courts; and all suits in which a succession is either plaintiff or defendant may be brought either in the parish or district court, according to the amount involved. In criminal matters the parish courts shall have jurisdiction in all cases when the penalty is not necessarily imprisonment at hard labor or death, and when the accused shall waive trial by jury. They shall also have the power of committing-magistrates and such other jurisdiction as may be conferred on them by law. There shall be no trial by jury before the parish courts.

ART. 88. In all probate matters when the amount in dispute shall exceed five hundred dollars exclusive of interest, the appeal shall be directly from the parish to the supreme court.

ART. 89. The justices of the peace shall be elected by the electors of each parish, in the manner to be provided by the general assembly. They shall hold office for the term of two years, and their compensation shall be fixed by law. Their jurisdiction in civil cases shall not exceed one hundred dollars, exclusive of interest, subject to an appeal to the parish court in all cases when the amount in dispute shall exceed ten dollars, exclusive of interest. They shall have such criminal jurisdiction as shall be provided for by law.

ART. 90. In any case when the judge may be recused, and when he is not personally interested in the matters in contestation, he shall select a lawyer, having the qualifications required for a judge of his court, to try such cases. And when the judge is personally interested in the suit, he shall call upon the parish or district judge, as the case may be, to try the case.

ART. 91. The general assembly shall have power to vest in the parish judges the right to grant such orders and to do such acts as may be deemed necessary for the furtherance of the administration of justice, and in all cases the power thus granted shall be specified and determined.

ART. 92. There shall be an attorney-general for the State, who shall be elected by the qualified electors of the State at large. He shall receive a salary of five thousand dollars per annum, payable quarterly, on his own warrant, and shall hold his office for four years. There shall be a district attorney for each judicial district of the State, who shall be elected by the qualified electors of the judicial district. He shall receive a salary of fifteen hundred dollars, payable quarterly, on his own warrant, and shall hold his office for four years.

ART. 93. There shall be a sheriff and coroner elected by the qualified electors of each parish, except the parish of Orleans. In the parish of Orleans there shall be

elected by the qualified electors of the parish at large one sheriff for the criminal court, who shall be the executive officer of said court, and shall have charge of the parish prison. There shall also be elected by the qualified electors of the parish at large one sheriff, who shall be the executive officer of the civil courts, and who shall perform all other duties heretofore devolving upon the sheriff of the parish of Orleans, except those herein delegated to the sheriff of the criminal court. The qualified electors of the city of New Orleans residing below the middle of Canal street shall elect one coroner for that district, and the qualified electors of the city of New Orleans residing above the middle of Canal street, together with those residing in that part of the parish known as Orleans, right bank, shall elect one coroner for that district. All of said officers shall hold their office for two years, and receive such fees of office as may be prescribed by law.

ART. 94. No judicial powers, except as committing-magistrates in criminal cases, shall be conferred on any officers other than those mentioned in this title, except such as may be necessary in towns and cities; and the judicial powers of such offices shall not extend futher than the cognizance of cases arising under the police regulations of towns and cities in the State. In any case where such officers shall assume jurisdiction over other matters than those which may arise under police regulations, or under their jurisdiction as committing-magistrates, they shall be liable to an action of damages in favor of the party injured, or his heirs; and a verdict in favor of the party injured shall, *ipso facto*, operate a vacation of the office of said officer.

TITLE V.

IMPEACHMENT.

ART. 95. The power of impeachment shall be vested in the house of representatives.

ART. 96. Impeachments of the governor, lieutenant-governor, attorney-general, secretary of state, auditor of public accounts, State treasurer, superintendent of public education, and of the judges of the inferior courts, justices of the peace excepted, shall be tried by the senate; the chief-justice of the supreme court, or the senior associate judge thereof, shall preside during the trial of such impeachments. Impeachments of the judges of the supreme court shall be tried by the senate. When sitting as a court of impeachment, the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present.

ART. 97. Judgments in cases of impeachment shall extend only to removal from office, and disqualification from holding any office of honor, trust, or profit in the State; but the convicted parties shall, nevertheless, be subject to indictment, trial, and punishment, according to law.

TITLE VI.

GENERAL PROVISIONS.

ART. 98. Every male person of the age of twenty-one years or upward, born or naturalized in the United States, and subject to the jurisdiction thereof, and a resident of this State one year next preceding an election, and the last ten days within the parish in which he offers to vote, shall be deemed an elector, except those disfranchised by this constitution, and persons under interdiction.

ART. 99. The following persons shall be prohibited from voting and holding any office: All persons who shall have been convicted of treason, perjury, forgery, bribery, or other crime punishable in the penitentiary, and persons under interdiction. All persons who are estopped from claiming the right of suffrage by abjuring their allegiance to the United States Government, or by notoriously levying war against it, or adhering to its enemies, giving them aid or comfort, but who have not expatriated themselves, nor have been convicted of any of the crimes mentioned in the first paragraph of this article, are hereby restored to the said right, except the following: Those who held office, civil or military, for one year or more, under the organization styled "the Confederate States of America;" those who registered themselves as

enemies of the United States; those who acted as leaders of guerrilla bands during the late rebellion; those who, in the advocacy of treason, wrote or published newspaper articles or preached sermons during the late rebellion; and those who voted for and signed an ordinance of secession in any State. No person included in these exceptions shall either vote or hold office until he shall have relieved himself by voluntarily writing and signing a certificate setting forth that he acknowledges the late rebellion to have been morally and politically wrong, and that he regrets any aid and comfort he may have given it; and he shall file the certificate in the office of the secretary of state, and it shall be published in the official journal: *Provided*, That no person who, prior to the first of January, eighteen hundred and sixty-eight, favored the execution of the laws of the United States popularly known as the reconstruction acts of Congress, and openly and actively assisted the loyal men of the State in their efforts to restore Louisiana to her position in the Union, shall be held to be included among those herein excepted. Registrars of voters shall take the oath o any such person as *prima-facie* evidence of the fact that he is entitled to the benefit of this proviso.

ART. 100. Members of the general assembly and all other officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I, [A. B.,] do solemnly swear [or affirm] that I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men; that I will support the Constitution and laws of the United States, and the constitution and laws of this State, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my ability and understanding: So help me God."

ART. 101. Treason against the State shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on his confession in open court.

ART. 102. All penalties shall be proportioned to the nature of the offence.

ART. 103. The privilege of free suffrage shall be supported by laws regulating elections and prohibiting under adequate penalties all undue influence thereon from power, bribery, tumult, or other improper practice.

ART. 104. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law. A statement and account of receipts and expenditures of all public moneys shall be made annually in such manner as shall be prescribed by law; and the first general assembly convening under this constitution shall make a special appropriation to liquidate whatever portion of the debt of this convention may at that time remain unpaid or unprovided for.

ART. 105. All civil officers of the State at large shall be voters of and reside within the State; and all district or parish officers shall reside within their respective districts or parishes, and shall keep their offices at such place therein as may be required by law.

ART. 106. All civil officers shall be removable by an address of two-thirds of the members-elect to each house of the general assembly, except those whose removal is otherwise provided for by this constitution.

ART. 107. In all elections by the people the vote shall be taken by ballot; and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*.

ART. 108. None but citizens of the United States and of this State shall be appointed to any office of trust or profit in this State.

ART. 109. The laws, public records, and the judicial and legislative proceedings of the State shall be promulgated and preserved in the English language; and no law shall require judicial process to be issued in any other than the English language.

ART. 110. No *ex post facto* or retroactive law, nor any law impairing the obligation of contracts, shall be passed, nor vested rights be divested, unless for purposes of public utility and for adequate compensation made.

ART. 111. Whenever the general assembly shall contract a debt exceeding in

amount the sum of one hundred thousand dollars, unless, in case of war, to repel invasion or suppress insurrection, it shall, in the law creating the debt, provide adequate ways and means for the payment of the current interest and of the principal when the same shall become due; and the said law shall be irrepealable until principal and interest be fully paid; or unless the repealing law contain some adequate provision for the payment of the principal and interest of the debt.

ART. 112. The general assembly shall provide by law for all change of venue in civil and criminal cases.

ART. 113. The general assembly may enact general laws regulating the adoption of children, emancipation of minors, and the granting of divorces; but no special law shall be passed relating to particular or individual cases.

ART. 114. Every law shall express its object or objects in its title.

ART. 115. No law shall be revived or amended by reference to its title; but in such case the revived or amended section shall be re-enacted and published at length.

ART. 116. The general assembly shall never adopt any system or code of laws by general reference to such system or code of laws; but in all cases shall specify the several provisions of the law it may enact.

ART. 117. No person shall hold or exercise at the same time more than one office of trust or profit, except that of justice of the peace or notary public.

ART. 118. Taxation shall be equal and uniform throughout the State. All property shall be taxed in proportion to its value, to be ascertained as directed by law. The general assembly shall have power to exempt from taxation property actually used for church, school, or charitable purposes. The general assembly may levy an income-tax upon all persons pursuing any occupation, trade, or calling. And all such persons shall obtain a license as provided by law. All tax on income shall be *pro rata* on the amount of income or business done. And all deeds of sale made, or that may be made, by collectors of taxes shall be received by courts in evidence as *prima facie* valid sales. The general assembly shall levy a poll-tax on all male inhabitants of this State, over twenty-one years old, for school and charitable purposes, which tax shall never exceed one dollar and fifty cents per annum.

ART. 119. No liability, either State, parochial, or municipal, shall exist for any debts contracted for or in the interest of the rebellion against the United States Government.

ART. 120. The general assembly may determine the mode of filling vacancies in all offices for which provision is not made in this constitution.

ART. 121. The general assembly shall pass no law requiring a property qualification for office.

ART. 122. All officers shall continue to discharge the duties of their offices until their successors shall have been inducted into office, except in cases of impeachment or suspension.

ART. 123. The general assembly shall provide for the protection of the rights of married women to their dotal and paraphernal property, and for the registration of the same; but no mortgage or privilege shall hereafter affect third parties, unless recorded in the parish where the property to be affected is situated. The tacit mortgages and privileges now existing in this State shall cease to have effect against third persons after the 1st day of January, 1870, unless duly recorded. The general assembly shall provide by law for the registration of all mortgages and privileges.

ART. 124. The general assembly, at its first session under this constitution, shall provide an annual pension for the veterans of 1814 and 1815, residing in the State.

ART. 125. The military shall be in subordination to the civil power.

ART. 126. It shall be the duty of the general assembly to make it obligatory upon each parish to support all paupers residing within its limits.

ART. 127. All agreements, the consideration of which was confederate money, notes, or bonds, are null and void, and shall not be enforced by the courts of this State.

ART. 128. Contracts for the sale of persons are null and void, and shall not be enforced by the courts of this State.

ART. 129. The State of Louisiana shall never assume nor pay any debt or obliga-

tion contracted or incurred in aid of the rebellion; nor shall this State ever, in any manner, claim from the United States, or make any allowance or compensation for slaves emancipated or liberated in any way whatever.

ART. 130. All contracts made and entered into under the pretended authority of any government heretofore existing in this State, by which children were bound out without the knowledge or consent of their parents, are hereby declared null and void; nor shall any child be bound out to any one for any term of years, while either one of its parents live, without the consent of such parent, except in cases of children legally sent to the house of correction.

ART. 131. The seat of government shall be established at the city of New Orleans, and shall not be removed without the consent of two-thirds of the members of both houses of the general assembly.

ART. 132. All lands sold in pusuance of decrees of courts shall be divided into tracts of from ten to fifty acres.

ART. 133. No judicial powers shall be exercised by clerks of courts.

ART. 134. No soldier, sailor, or marine, in the military or naval service of the United States, shall hereafter acquire a residence in this State by reason of being stationed or doing duty in the same.

TITLE VII.

PUBLIC EDUCATION.

ART. 135. The general assembly shall establish at least one free public school in every parish throughout the State, and shall provide for its support by taxation or otherwise. All children of this State between the years of six and twenty-one shall be admitted to the public schools or other institutions of learning sustained or established by the State in common, without distinction of race, color, or previous condition. There shall be no separate schools or institutions of learning established exclusively for any race by the State of Louisiana.

ART. 136. No municipal corporation shall make any rules or regulations contrary to the spirit and intention of article 135.

ART. 137. There shall be elected by the qualified voters of this State a superintendent of public education, who shall hold his office for four years. His duties shall be prescribed by law, and he shall have the supervision and the general control of all public schools throughout the State. He shall receive a salary of five thousand dollars per annum, payable quarterly, on his own warrant.

ART. 138. The general exercises in the public schools shall be conducted in the English language.

ART. 139. The proceeds of all lands heretofore granted by the United States for the use and support of public schools, and of all lands or other property which may hereafter be bequeathed for that purpose, and of all lands which may be granted or bequeathed to the State, and not granted or bequeathed expressly for any other purpose, which may hereafter be disposed of by the State, and the proceeds of all estates of deceased persons to which the State may be entitled by law, shall be held by the State as a loan, and shall be and remain a perpetual fund, on which the State shall pay an annual interest of 6 per cent., which interest, with the interest of the trust-fund deposited with this State by the United States under the act of Congress approved June the twenty-third, eighteen hundred and thirty-six, and the rent of the unsold land, shall be appropriated to the support of such schools; and this appropriation shall remain inviolable.

ART. 140. No appropriation shall be made by the general assembly for the support of any private school or any private institution of learning whatever.

ART. 141. One-half of the funds derived from the poll-tax herein provided for shall be appropriated exclusively to the support of the free public schools throughout the State and the University of New Orleans.

ART. 142. A university shall be established and maintained in the city of New Orleans. It shall be composed of a law, a medical, and a collegiate department, each with appropriate faculties. The general assembly shall provide by law for its

organization and maintenance: *Provided*, That all departments of this institution of learning shall be open in common to all students capable of matriculating. No rules or regulations shall be made by the trustees, faculties, or other officers of said institution of learning, nor shall any laws be made by the general assembly violating the letter or spirit of the articles under this title.

ART. 143. Institutions for the support of the insane, the education and support of the blind and the deaf and dumb, shall always be fostered by the State, and be subject to such regulations as may be prescribed by the general assembly.

TITLE VIII.

MILITIA.

ART. 144. It shall be the duty of the general assembly to organize the militia of the State; and all able-bodied male citizens, between the ages of eighteen and forty-five years, not disfranchised by the laws of the United States and of this State, shall be subject to military duty.

ART. 145. The governor shall appoint all commissioned officers, subject to confirmation or rejection by the senate, except the staff-officers, who shall be appointed by their respective chiefs, and commissioned by the governor. All militia officers shall take and subscribe to the oath prescribed for officers of the United States Army and the oath prescribed for officers in this State.

ART. 146. The governor shall have power to call the militia into active service for the preservation of law and order, or when the public safety may require it. The militia, when in active service, shall receive the same pay and allowances, as officers and privates, as is received by officers and privates in the United States Army.

TITLE IX.

MODE OF REVISING THE CONSTITUTION.

ART. 147 Any amendment or amendments to this constitution may be proposed in the senate or house of representatives, and if the same shall be agreed to by two-thirds of the members elected to each house, such proposed amendment or amendments shall be entered on their respective journals, with the yeas and nays taken thereon; and the secretary of state shall cause the same to be published three months before the next general election for representatives to the general assembly, in at least one newspaper in every parish of the State in which a newspaper shall be published. And such proposed amendment or amendments shall be submitted to the people at said election; and if a majority of the voters at said election shall approve and ratify such amendment or amendments, the same shall become a part of this constitution. If more than one amendment shall be submitted at one time, they shall be submitted in such manner and form that the people may vote for or against each amendment separately.

TITLE X.

SCHEDULE.

ART. 148. The ordinance of secession of the State of Louisiana, passed 26th of January, 1861, is hereby declared to be null and void. The constitution adopted in 1864, and all previous constitutions in the State of Louisiana, are declared to be superseded by this constitution.

ART. 149. All rights, actions, prosecutions, claims, contracts, and all laws in force at the time of the adoption of this constitution, and not inconsistent therewith, shall continue as if it had not been adopted; all judgments and judicial sales, marriages, and executed contracts, made in good faith and in accordance with existing laws in this State, rendered, made, or entered into, between the 26th day of January, 1861, and the date when this constitution shall be adopted, are hereby declared to be valid, except the following laws:

An act to authorize the widening of the new canal and basin, approved March 14, 1867.

An act to amend and re-enact the 121st section of an act entitled "An act relative to crimes and offences, approved December 20, 1865.

An act for the punishment of persons for tampering with, persuading, or enticing away, harboring, feeding, or secreting laborers, servants, or apprentices, approved December 21, 1865.

An act to punish, in certain cases, the employers of laborers and apprentices, approved December 21, 1865.

An act in relation to exemption from State, parish, and city taxes, for the years 1862, 1863, 1864, and 1865, in certain cases, certified March 16, 1866.

An act granting ferry privileges to C. K. Marshall, his heirs or assigns, approved March 10, 1866.

An act to authorize the board of levee commissioners, of the levee district in the parishes of Madison and Carroll, to issue bonds, &c., approved March 28, 1867.

Section third of An act to organize the police of New Orleans, and to create a police-board therein, approved February 12, 1866.

ART. 150. The laws relative to the duties of officers shall remain in force, though contrary to this constitution, and the several duties be performed by the respective officers, until the organization of the government under this constitution.

ART. 151. The general assembly shall provide for the removal of causes now pending in the courts of this State to courts created by or under this constitution.

TITLE XI.

ORDINANCE.

ART. 152. Immediately upon the adjournment of this convention this constitution shall be submitted for ratification to the registered voters of the State, in conformity to the act of Congress passed March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States," and the acts supplementary thereto.

ART. 153. The election for the ratification of the constitution shall be held on Friday and Saturday, the 17th and 18th days of April, 1868, at the places now prescribed by law; and the polls shall be kept open from 7 o'clock a. m. to 7 o'clock p. m. At that election all those in favor of ratifying the constitution shall have written or printed on their ballots "For the constitution;" and those opposed to ratifying the constitution shall have written or printed on their ballots "Against the constitution."

ART. 154. In order to establish a civil government, as required by act of Congress passed March 23, 1867, an election shall be held, at the same time and place at which the constitution is submitted for ratification, for all State, judicial, parish, and municipal officers, for members of the general assembly, and for congressional Representatives, at which election the electors who are qualified under the reconstruction acts of Congress shall vote, and none others: *Provided*, That any elector shall be eligible to any office under any municipal corporation in this State.

ART. 155. At the election for the ratification of the constitution, and for officers of the civil government, as required by Congress, all registered electors may vote in any parish where they have resided for ten days next preceding said election, and at any precinct in the parish, upon presentation of their certificates of registration, affidavit, or other satisfactory evidence that they are entitled to vote as registered electors.

ART. 156. The same registrars and commissioners who shall be appointed by the commanding general of the fifth military district to superintend the election for the ratification or rejection of the constitution, shall also, at the same time and place, superintend the election for all officers and representatives herein ordered: *Provided*, They be authorized so to act by the commanding general. And in case the commanding general should not so authorize said registrars and commissioners, the committee of seven, appointed by this convention to take charge of the whole matter of the ratification of the constitution and the election of civil officers, shall appoint one registrar for each parish in the State, except the parish of Orleans, and one in each district of the parish of Orleans, counting Orleans, right bank, as one district, who shall, each in his parish or district, appoint a sufficient number of commissioners of

election to hold the said election for said civil officers and representatives at the same time and place as herein provided for.

ART. 157. Returns shall be made in duplicate, sworn to by the commissioners holding the election, and forwarded within three days thereafter, to the registrars of the parish or district. The registrars shall immediately forward one copy of said returns to the chairman of the committee of seven appointed by this convention, who shall, within ten days after the last return has been received, make proclamation of the result of said election.

ART. 158. All civil officers thus elected shall enter upon the discharge of their duties on the second Monday after the return of their election shall have been officially promulgated, or as soon as qualified according to law, and shall continue in office for the terms of their respective offices herein prescribed, said terms to date from the first Monday in November following the election.

ART. 159. The general assembly elected under this constitution shall hold its first session in the city of New Orleans on the third Monday after the official promulgation aforesaid, and proceed immediately upon its organization to vote upon the adoption of the fourteenth amendment to the Constitution of the United States, proposed by Congress, and passed June 13, 1866. Said general assembly shall not have power to enact any laws relative to the per diem of members, or any other subject, after organization, until said constitutional amendment shall have been acted upon.

ART. 160. All registrars and commissioners appointed under this constitution shall, before entering upon their duties, take and subscribe the oath of office prescribed by Congress, approved July second, eighteen hundred and sixty-two, entitled "An act to prescribe an oath of office;" the said oath of office shall be administered to each registrar by the chairman of the committee of seven and to each commissioner by the registrar appointing him.

ART. 161. All registrars, commissioners, and other officers, necessary to carry into effect the provisions of this ordinance, except as otherwise provided for by the reconstruction acts of Congress, shall be paid out of any funds raised by virtue of the tax ordinance adopted by the convention December twenty-fourth, eighteen hundred and sixty-seven, not otherwise appropriated.

JAMES G. TALIAFERRO, *President.*

WM. VIGERS, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1868.

RATIFIED 1870.

TITLE II. ART. 17. Strike out the words "first Monday" and insert the words "first Tuesday after the first Monday."

TITLE VI. ART. 99. No person shall hold any office, or shall be permitted to vote at any election, or to act as a juror who, in due course of law, shall have been convicted of treason, perjury, forgery, bribery, or other crime, punishable by imprisonment in the penitentiary, or who shall have been under interdiction.

ART. —. That no person who, at any time, may have been a collector of taxes, whether State, parish, or municipal, or who may have been otherwise intrusted with public money, shall be eligible to the General Assembly, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been intrusted.

ART. —. That prior to the first day of January, 1890, the debt of the State shall not be so increased as to exceed twenty-five millions of dollars.

RATIFIED 1874.

ART. —. SEC. 1. The issue of consolidated bonds authorized by the General Assembly of the State, at its regular session in the year 1874, is hereby declared to create a valid contract between the State and each and every holder of said bonds, which the State shall by no means and in no wise impair. The said bonds shall be a valid obligation of the State in favor of any holder thereof, and no court shall enjoin the payment of the principal or interest thereof, or the levy and collection of the tax therefor; to secure such levy, collection, and payment the judicial power shall be exercised when necessary. The tax required for the payment of the principal and interest of said bonds shall be assessed and collected each and every year until the bonds shall be paid, principal and interest, and the proceeds shall be paid by the treasurer of the State to the holders of said bonds as the principal and interest of the same shall fall due, and no further legislation or appropriation shall be requisite for the said assessment and collection and for such payment from the treasury.

SEC. 2. Whenever the debt of the State shall have been reduced below twenty-five million dollars, the constitutional limit shall remain at the lowest point reached, beyond which the public debt shall not thereafter be increased; and this rule continue in operation until the debt is reduced to fifteen million dollars, beyond which it shall not be increased. Nor shall taxation for all State purposes, excepting the support of public schools, ever exceed twelve and a half mills on the dollar of the assessed valuation of the real and personal property in the State, except in case of war or invasion.

SEC. 3. The revenue of each year derived from taxation upon real, personal, and mixed property, or from licenses, shall be devoted solely to the expenses of the said year for which it shall be raised, excepting any surplus remain, which shall be directed to sinking the public debt. All appropriations and claims in excess of revenue shall be null and void, and the State shall in no manner provide for their payment.

ART. —. The city of New Orleans shall not hereafter increase her debt in any manner or form or under any pretext. After the first day of January, 1875, no evidence of indebtedness or warrant for payment of money shall be issued by any officer of said city, except against cash actually in the treasury; but this shall not be so construed as to prevent a renewal of matured bonds at par, or the issue of new bonds in exchange for other bonds, provided the city debt be not thereby increased, nor to prevent the issue of drainage warrants to the transferee of contract, under act No. 30, of 1871, payable only from drainage taxes, and not otherwise; any person violating the prohibitions [provisions] of this article shall, on conviction, be by imprisonment for not less two nor more than ten years, and by fine of not less than three dollars nor more than ten thousand dollars.

MAINE.

THE CHARTER OF ACADIA—1603.*

HENRY, par la grace de Dieu, Roi de France & de Navarre: A nos amés & féaux Conseillers les Officiers de notre Admirauté de Normandie, Bretagne, Picardie & Guienne, & à chacun d'eux en droit soi, & en l'étendue de leurs ressorts & jurisdictions; SALUT. Nous avons pour beaucoup d'importantes occasions, ordonné, commis & établi le sieur de Monts, Gentilhomme ordinaire de notre Chambre, notre Lieutenant général, pour peupler & habiter les terres, côtes & pays de l'Acadie, & *autres circonvoisins*, en l'étendue du quarantième degré jusqu'au quarante-sixième, & là établir notre autorité, & autrement s'y loger & assurer; en sorte que nos sujets desormais y puissent être reçûs, y hanter, résider & trafiquer avec les Sauvages habitans desdits lieux, comme plus expressément nous l'avons déclaré par nos lettres patentes, expédiées & délivrées pour cet effet audit sieur de Monts le huitième jour de novembre dernier, suivant les conditions & articles, moyennant lesquelles il s'est chargé de la conduite & exécution de cette entreprise. Pour faciliter laquelle, & à ceux qui s'y sont joints avec lui, & leur donner quelque moyen & commodité d'en supporter la dépense; Nous avons eu agréable de leur promettre & assurer qu'il ne seroit permis à aucuns autres nos sujets, qu'à ceux qui entreroient en association avec lui pour faire ladite dépense, de trafiquer de pelleterie & autres marchandises durant dix années, ès terres, pays, ports, rivières & avenues de l'étendue de sa charge; ce que nous voulons avoir lieu. Nous, pour ces causes & autres considérations à ce nous mouvans, vous mandons & ordonnons que vous ayez, chacun de vous en l'étendue de vos pouvoirs, jurisdictions & détroits, à faire de notre part, comme de notre pleine puissance & autorité Royale, nous faisons très-expresses inhibitions & défenses à tous marchands, maîtres & Capitaines de navires, matelots & autres nos sujets de quelque état, qualité & condition qu'ils soient, autres néanmoins & fors à ceux qui sont entrés en association avec ledit sieur de Monts pour ladite entreprise, selon les articles & conventions d'icelles, par nous arrêtés, ainsi que dit est; d'equiper aucuns vaisseaux, & en iceux aller ou envoyer faire trafic & troque de pelleterie, & autres choses avec les Sauvages, fréquenter, négocier & communiquer durant ledit temps de dix ans, depuis le cap de Raze, jusqu'au quarantième degré, comprenant *toute la côte de l'Acadie, terre & Cap-Breton, baie de Saint-Cler, de Chaleur, isles percées, Gaspay, Chichedec, Mesamichi, Lesquemin, Tadoussac & la rivière de Canada, tant d'un côté que d'autre, & toutes les baies et rivières qui entrent au dedans desdites costes, à* peine de desobéissance, & confiscation entière de leurs vaisseaux, vivres, armes & marchandises, au profit dudit sieur de Monts & de ses associés, & de trente mille livres d'amende. Pour l'assurance & acquit de laquelle, & de la cohertion & punition de leur desobéissance, vous permettrez, comme nous avons aussi permis & permettons, audit sieur de Monts & associés, de saisir, appréhender & arrêter tous les contrevenans à notre présente défense & ordonnance, & leurs vaisseaux, marchandises, armes & victuailles, pour les amener & remettre ès mains de la justice,

* This charter, which was granted by Henry IV of France to Pierre du Gast, sieur de Monts, a Protestant member of his suite, embraced the whole of North America between the fortieth and forty-sixth degrees of latitude. An expedition fitted out under it visited Passamaquoddy Bay in 1604, and another explored the coast of Maine in 1605, entering the Penobscot, Kennebec, and Saco Rivers. But in 1606 it was decided to make a permanent settlement at Port Royal, and no further attempt was made to plant colonies under this charter within the limits of the present State of Maine. The French in Canada, however, maintained friendly relations with the Penobscot Indians, and had several missionary and trading stations among them until Great Britain took possession of the country under the treaty of Paris of 1673.

& être procédé, tant contre les personnes que contre les biens desdits desobéissans, ainsi qu'il appartiendra: ce que nous voulons, & vous mandons & ordonnons de faire incontinent publier & lire par tous les lieux & endroits publics de vosdits pouvoirs & jurisdictions où vous jugerez besoin être, à ce qu'aucun de nosdits sujets n'en puisse prétendre cause d'ignorance, ains que chacun obéisse & se conforme sur ce à notre volonté; de ce faire nous vous avons donné & donnons pouvoir & commission & mandement spécial: Car tel est notre plaisir. DONNÉ à Paris, le dixhuit décembre, l'an de grace mil six cens trois, & de notre règne le quinzième, ainsi signé HENRY. *Et plus bas*, Par le Roi, POTIER. Et scellé du grand scel de cire jaulne.

THE FIRST CHARTER OF VIRGINIA—1606.*

[See "Virginia," pages 1888–1893.]

THE GRANT TO THE EARL OF STIRLING—1621.†

[See "Northeastern Boundary Arbitration," pages 74–82.]

GRANT OF THE PROVINCE OF MAINE—1639.‡

CHARLES by the grace of God King of England Scotland France and Ireland Defender of the Faith, &c

To all to whom theise Presents shall come Greeting Whereas Sir Ferdinando Gorges Knight hath been an humble suitor unto us to graunte and confirme unto him

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* This charter, which was granted by James I of Great Britain, gave the lands along the North American coast between the thirty-fourth and the forty-fifth degrees of north latitude to two companies, one of which had its headquarters at London and the other at Plymouth, England. The Plymouth, or second company, at once commenced colonizing the coast of New England, which was especially assigned to it. The first colony was planted on the peninsula of Sabino, at the mouth of the Kennebec River, August 19, 1607, o. s., by George Popham. Strachey says: "They fully finished the fort, trencht and fort efyed yt with 12 pieces of ordnance, and built 50 houses therein, besides a church and a storehouse; and the carpenters framed a pretty Pinnace of about some 30 tonne, which they called the Virginia." Popham, who "brought into these wilds English laws and learning, and the faith and the Church of Christ," died February 5, 1808, o. s, and was buried at Sabino. A fort, which was erected near the spot by the United States Government in 1862, perpetuates the event by bearing the name "Fort Popham."

† The Earl of Stirling claimed that under this patent he was entitled to land on the coast of Maine, afterward granted to the Plymouth Company, and by direction of James I that company issued a patent to William Alexander, Earl of Stirling, "for a tract of the maine land of New England, beginning at Saint Croix, and from thence extending along the sea-coast to Pemaquid and the river Kennebeck." (See "Vindication of the Rights and Titles of Alexander, Earl of Stirling.")

‡ This charter which was granted by Charles I to Sir Ferdinando Gorges virtually confirmed a patent which had been given by the Plymouth Company, established under the charter of 1606, to Sir Ferdinando Gorges and Captain John Mason, dated August 10, 1622. Gorges established a government under it, which was broken up by his death in 1647.

Sir Ferdinando Gorges's grandson, Ferdinando Gorges, sold and gave a deed of the Province of Maine, March 13, 1677, to John Usher, a merchant of Boston, for £1,250. In the same year Usher gave a deed of the same territory to the governor and company of Massachusetts Bay.

and his heires a parte and porcon of the Countrie of America now commonly called or knowne by the name of New England in America hereafter in theise Presents described by the meets and boundes thereof with divers and sundrie priviledges and jurisdiccons for the welfare and good of the state of those Colonies that shalbee drawne thither and for the better governement of the people that shall live and inhabite within the lymits and precints thereof whiche parte or porcon of the said Countrie wee have heretofore (amongst other things) for us our heires and successors taken into actuall and reall possession or in defaulte of such actuall and reall possession formerly taken Wee Doe by theise Presents for us our heires and successors take the same into our actuall and reall possession Knowe yee therefore that of our especiall grace certaine knowledge and meere mocon Wee Have given graunted and confirmed And by these Presents for us our heires and successors Doe give graunte and confirme unto the said Sir Fardinando Gorges his heires and assignes All that Parte Purparte and Porcon of the Mayne Lande of New England aforesaid beginning att the entrance of Pascataway Harbor and soe to passe upp the same into the River of Newichewanocke and through the same unto the furthest heade thereof and from thence Northwestwards till one hundred and twenty miles bee finished and from Pascataway Harbor mouth aforesaid Northeastwards along the Sea Coasts to Sagadahocke and upp the River thereof to Kynybequy River and through the same unto the heade thereof and into the Lande Northwestwards untill one hundred and twenty myles bee ended being accompted from the mouth of Sagadahocke and from the period of one hundred and twenty myles aforesaid to crosse over Lande to the one hundred and twenty myles end formerly reckoned upp into the Lande from Pascataway Harbor through Newichewanocke River and alsoe the Northe halfe of the Isles of Shoales togeather with the Isles of Capawock and Nawtican neere Cape Cod as alsoe all the Islands and Iletts lyeinge within five leagues of the Mayne all alonge the aforesaide Coasts betweene the aforesaid River of Pascataway and Segadahocke with all the Creekes Havens and Harbors thereunto belonginge and the Revercon and Revercons Remaynder and Remaynders of all and singular the said Landes Rivers and Premisses All which said Part Purpart or Porcon of the Mayne Lande and all and every the Premisses herein before named Wee Doe for us our heires and successors create and incorporate into One Province or Countie And Wee Doe name ordeyne and appoynt that the porcon of the Mayne Lande and Premises aforesaide shall forever hereafter bee called and named The Province or Countie of Mayne and not by any other name or names whatsoever with all and singuler the Soyle and Grounds thereof as well drye as covered with water and all Waters Portes Havens and Creekes of the Sea and Inletts of the said Province of Mayne and Premisses as to them or any of them belonginge or adjacent as alsoe all Woodes Trees Lakes and Rivers within the said Provynce of Mayne and Premisses and the Lymitts of the same togeather with the Fisheing of whatsoever kinde as well Pearle as Fishe as Whales Sturgeons or any other either in the Sea or Rivers and alsoe All Royaltyes of Hawkeing Hunting Fowleing Warren and Chases within the said Province of Mayne and Premisses aforesaid Deere of all sorts and all other Beasts and Fowles of Warren and Chase and all other Beasts there and alsoe All Mynes and Oare of Goulde Silver Precious Stones Tynne Leade Copper Sulphure Brimstone or any other Mettall or Mynerall matter whatsoever within the said Province and Premisses or any of them opened or hidden in all Quarries there And all Gould Silver Pearle Precious Stones and Ambergreece whiche shalbee founde within the said Province and Premisses or any of them and the Lymitts and Coasts of the same or any of them or any parte of them or any of them and all and singular other Proffitts Benefitts and Commodityes groweing comeing accrueing or happening or to be had perceived or taken within the said Province and Premisses Lymitts and Coasts of the same or any of them and alsoe All Patronages and Advowsons Free Disposicons and Donacons of all and every such Churches and Chappells as shalbee made and erected within the said Province and Premisses or any of them with full power lycense and authority to builde and erecte or cause to be builte and erected soe many Churches and Chappells there as to the said Sir Ferdinando Gorges his heires and assignes shall seeme meete and convenient and to dedicate and consecrate

the same or cause the same to bee dedicated and consecrated according to the Ecclesiastical Lawes of this our Realme of England togeather alsoe with all and singuler and as large and ample Rights Jurisdiccons Priviledges Prerogatives Royalties Libertyes Imunityes Franchises Preheminences and Hereditaments as well by Sea as by Lande within the said Province and Premisses and the Precincts and Coasts of the same or any of them and within the Seas belonging or adjacent to them or any of them as the Bishopp of Durham within the Bishopricke or Countie Palatine of Duresme in our Kingdome of England now hath useth or enjoyeth or of right hee ought to have use or enjoye within the said Countie Palatine as if the same were herein particulerly menconed and expressed To have and to houlde possesse and enjoye the said Province and Premisses and every of them and all and singuler other the Premisses before by theise Presents graunted or menconed or intended to bee graunted with theire and everye of theire rights members and appurtenances unto the said Sir Ferdinando Gorges his heires and assignes To the sole and only use of the said Sir Ferdinando Gorges his heires and assignes forever To bee houlden of us our heires and successors as of the Mannor of East Greenwich in the Countie of Kent by Fealty onely in fee and common Soccage and not in Capite nor in Knights Service for all manner of service whatsoever Yieldeing and Payeing therefore yearely to us our heires and successors one Quarter of Wheate And alsoe Yieldeing and Payeing to us our heires and successors the fifte parte of the cleere yearely proffitts of all Royall Mynes of Goulde and Silver that from tyme to tyme and att all tymes hereafter shalbee there gotten and obteyned (if any suche shalbee there founde) and the fifte parte of all Goulde and Silver founde uppon the Sea Shoare or in Rivers or elsewhere within the boundes and lymitts of the said Province and Premisses and the fifte parte of the cleere yearely proffitt of Pearle Fisheing And Wee Doe for us our heirs and successors further Graunte unto the said Sir Fardinando Gorges his heires and assignes forever All Treasure Trove Goodes and Chattells of Felons and of Felons of themselves Waifes Estrayes Pyrats Goodes Deodands Fynes and Amerciaments of all the Inhabitants and others happening groweinge or ariseing in the said Province and other the Premisses or any part thereof or in any Voyage or Passage to or from the same aswell for Offences committed against our selfe our heires and successors or thinges concerninge our selfe our heires or successors or our proffit as against others or thinges concerninge others or the proffitts of others and all and all manner of Wrecks of Shipps or Merchandize and all that which to wrecke belongeth by what means soever happening within or uppon the Havens Coasts Creeks or Shoares of the Premisses or any parte thereof And Wee Doe for us our heires and successors create ordeyne and constitute the said Fardinando Gorges his heires and assignes the true and absolute Lords and Proprietors of all and every the aforesaid Province of Mayne and Premisses aforesaid and all and every the Lymitts and Coasts thereof Saveing always the faith and allegiance and the Supreame Dominion due to us our heires and successors And for the better governement of such our Subjects and others as att any tyme shall happen to dwell or reside within the said Province and Premisses or passe to or from the same our will and pleasure is that the Religion nowe professed in the Church of England and Ecclesiasticall Governement nowe used in the same shalbee forever hereafter professed and with asmuch convenient speede as may bee setled and established in and throughout the said Province and Premisses and every of them And Wee Doe for us our heires and successors by theise Presents give and graunte unto the said Sir Fardinando Gorges his heires and assignes power and authority with the assent of the greater parte of the Freeholders of the said Province and Premisses for the tyme being (when there shalbee any) whoe are to bee called thereunto from tyme to tyme when and as often as it shalbee requisite to make ordeyne and publish Lawes Ordinances and Constitucons reasonable and not repugnant or contrary but agreeable (as neere as conveniently may bee) to the Lawes of England for the publique good of the said Province and Premisses and of the Inhabitants thereof by imposeing of penaltyes imprisonments or other coneccons (or if the offence shall require) by takeing away of life or member the said Lawes and Constitucons to extend as well to such as shalbee passing unto or returning from the said Province and Premisses as unto the Inhabitants and Residents of or within the

same and the same to bee put in execucon by the said Sir Fardinando Gorges his heires or assignes or by his or theire Deputies Lieuetenants Judges Officers or Ministers in that behalfe lawfully authorized and the same Lawes Ordinances and Constitucons or any of them to alter change revoke or make voyde and to make new not repugnant nor contrary but agreeable as neere as may bee to the Lawes of England as the said Sir Fardinando Gorges his heires or assignes togeather with the said Freehoulders or the greater parte of them for the tyme being shalbee from tyme to tyme thought fitt and convenient And Wee Doe further by theise Presents for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes full power and authoritie and that itt shalbee lawefull to and for him the said Sir Fardinando Gorges his heires and assignes to erect Courtes of Justice aswell ecclesiasticall as civill and temporall whatsoever and to appoynt and constitute from tyme to tyme Judges Justices Magistrates and Officers as well of the said Courte and Courtes of Justice as otherwise aswell by Sea as by Lande for the hearing and determining of all manner of Causes whatsoever within or concerning the said Province and Premisses or any of them or the Inhabitants or Residents there and Passengers to or from the same aswell by Lande as by Sea and to order and appoynt what matters or thinges shalbee heard determyned done or ordered in anie of the said Courtes or by any of the said Judges Magistrates and officers with such power and in such forme as it shall seeme good to the said Sir Fardinando Gorges his heires and assignes And the said Judges Justices Magistrates and Officers and every or any of them from time to time to displace and remove when the said Sir Fardinando Gorges his heires or assignes shall thinke fitt and to place others in theire roomes and steed And that the Inhabitants and Residents within the said Province and Premisses and Passengers to and from the same may within foftie days after sentence given in the said Courtes (where appeales in like Courtes within this Kingdome are admitted) appeale to the said Sir Fardinando Gorges his heires or assignes or his or theire generall Governour or Chiefe Deputie of the said Province and Premisses for the tyme being To whome Wee Doe by these Presents for us our heires and successors give full power and authoritie to proceede in such Appeals as in like case of Appeales within this our Realme of England And Wee Doe further for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes full power and authoritie to pardon remitt and release all offences and offendors within the said Province and Premisses against all and every or any the said Lawes Ordynances or Constitucons and to doe all and singular other thinges unto the execucon of Justice apperteyning in any Courte of Justice according to the forme and manner of proceeding in such Courtes to be used although in these our Letters Patents there bee noe particuler mencon of the same But Wee Doe nevertheles hereby signifie and declare our will and pleasure to bee the powers and authorities hereby given to the said Sir Fardinando Gorges his heires and assignes for and concerning the Governement both Ecclesiasticall and Civill within the said Province and Premisses shalbee subordynate and subject to the power and reglement of the Lords and other Commissioners here for forraigne Plantacons for the tyme being but for all and whatsoever doth shall or maye concerne the proprietie of the said Province Partes and Coastes of the same or any of them or any Owner Shipp or Interest in any Landes Tenements or other Hereditaments Goodes or Chattells or the nomynateing or appoynting of any Officer or Officers the same is lefte whollie to the said Sir Fardinando Gorges his heires and assignes according to the tenor intent and true meaning of theise Presents And because such Assemblies of Freehoulders for makeing of Lawes cannot alwayes bee soe suddenly called as there may bee occasion to require the same Wee Doe therefore for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes full power and authortie that hee the said Sir Fardinando Gorges his heires and assignes by him and themselves or by his or theire Deputies Magistrates or Officers in that behalfe lawfully constituted shall or maye from tyme to tyme make and ordeyne fitt and wholesome Ordinances within the said Province or Premisses aforesaid to bee kepte and observed as well for the keepeing of the peace as for the better governement of the people there abideing or passing to or from the same and to publishe the same to all to whome itt maye

concerne which Ordinances Wee Doe for us our heires and successors straightly comand to bee inviolably observed within the said Province and Premisses under the penaltie therein expressed soe as the same Ordinances bee reasonable and not repugnant or contrary but as neere as may bee agreeable to the Lawes and Statutes of our Kingdome of England and soe as the same Ordinances doe not extend to the bindeing chargeing or takeing away of the right or interest of any person or persons in theire lives members Freehoulds Goodes or Chattells whatsoever And because in a Country soe farr distant and seated amongst soe many barbarous nations the Incursions or Invasions aswell of the barbarous people as of Pirates and other enemies maye be justly feared Wee Doe therefore for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes full power and authoritie that hee the said Sir Fardinando Gorges his heires and assignes aswell by him and themselves as by his and theire Deputyes Captaynes or other Officers for the tyme being shall or lawfullye maye muster leavie rayse armes and ymploye all person and persons whatsoever inhabiteing or resideing within the said Province or Premisses for the resisting or withstanding of such Enymies or Pyrates both att Lande and att Sea and such Enimies or Pyrates (if occasion shall require) to pursue and prosecute out of the lymitts of the said Province or Premisses and then (if itt shall soe please God) to vanquishe apprehende and take and being taken either according to the Lawe of armes to kill or to keepe and preserve them att their pleasure And likewise by force of armes to recover from any person or persons all such Territories Domynions Landes Places Goods Chattels and Wares which hereafter shalbee taken from the said Sir Fardinando Gorges his heires or assignes or from his or theire Deputyes Officers or Servants or from any the Plantors Inhabitants or Residents of or within the said Province or Premisses or from any other Members Aydors or Assistors of the said Sir Fardinando Gorges his heires or assignes or from any other the subjects of us our heires and successors or others in amitie with us our heires and successors in the said Province and Premisses and Coasts or any of them or in theire passage to or from the same And We Doe further for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes in case any Rebellion sudden tumult or mutynie shall happen to arise either uppon the said Lande within the said Province and Premisses or any of them or Coastes of the same or uppon the mayne Sea in passing thither or returning from thence or in any such expedicon or service as aforesaid itt shall and may be lawefull to and for the said Sir Fardinando Gorges his heires and assignes as well by him and themselves as by his and theire deputies Captaynes or other Officers under his or theire seale in that behalfe to bee authorised (to whome wee alsoe for us our heires and successors doe give and graunte full power and authoritye to doe and execute the same) to use and execute martial lawe against such Rebells Traytors Mutyners and Seditious Persons in as ample manner and forme as anie Captayne Generall in the Warrs or as any Lieuetennante or Lieuetennants of any Countie within this our Realme of England by vertue of his or theire Office or Place maie or have beene accustomed in tyme of Warre Rebellion or Mutynie to doe and performe And Wee Doe for us our heires and successors further give and graunte unto the said Sir Fardinando Gorges his heires and assignes and to all and every Commander Governour Officer Minister Person and Persons which shall by the said Sir Fardinando Gorges his heires or assignes bee thereunto authorized or appoynted leave lycense and power to erect rayse and builde from time to tyme in the Province Territories and Coastes aforesaid and every or any of them such and soe manie Forts Fortresses Platforms Castles Citties Townes and Villages and all Fortificacons whatsoever and the same and everie of them to fortifie and furnishe with men Ordynances Powder Shott Armour and all other Weapons Munition and Habilliments of Warr both for defence and offence whatsoever as to the said Sir Fardinando Gorges his heirs and assignes and everie or anie of them shall seeme meete and convenient And likewise to committ from tyme to tyme the Government Custody and defence thereof unto such person and persons as to the said Sir Fardinando Gorges his heires and assignes shall seeme meete and to the said severall Citties Borroughes and Townes to graunte Letters or Charters of Incorporacons with all Libertyes and thinges belonging to the same and in the said

severall Cittyes Boroughes and Townes to constitute suche and soe manie Marketts Marts and Fayres and to graunte such meete Tolles Customes Dutyes and Priviledges to or with the same as by the said Sir Fardinando Gorges his heires or assignes shalbee thought fitt And for that Plantacons are subjecte to diverse difficulties and discommodities Therefore Wee favouring the present beginning of the said Plantacon and haveing a provident care that those whoe are grieved in one thing may bee releived in another Doe of our especiall grace certeyne knowledge and meere mocon for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes and to all other our subjects the Dwellers or Inhabitants that shall att any tyme hereafter bee the Plantors of or in the said Province or any of the Premisses free Lycense and Libertie for the landeing bringeing in and unladeing or otherwise disposeing of all the Wares Merchandize Proffitts and Comodities of the said Province or any the Premisses both by sea and lande either by themselves or theire Servants Factors or Assignes in any of the Portes of us our heires and successors within our Kingdomes of England and Ireland payeing onely such Customes Subsidies and Dutyes as our naturall subjects of this our Realme of England shall or ought to paye and none other and to have and enjoye all such Liberties Freedomes and Privyledges for or concerneing the exporting of the same agayne without payement of any more Customes or Dutyes and for having agayne of Imposts in such manner and in the like beneficiall sorte as any of our naturall subjects of this our Realme shall then have and enjoye And Wee Doe alsoe for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes full and absolute power and authoritie to make erect and appoynt within the said Province and Premisses such and soe many Portes Havens Creekes and other Places for the ladeing and unladeing of Shippes Barques and other Vessells and in such and soe many places and to appoynt such Rights Jurisdiccons Priviledges and Libertyes unto the said Portes Havens and Creekes belonging as to him or them shall seeme meete and that all and singuler Shippes Boyes Barques and other Vessels to bee laden and unladen in any way of Merchandize shalbee laden or unladen att such Portes Havens and Creekes soe by the aforesaid Sir Fardinando Gorges his heires or assignes to be erected and appoynted and not elsewhere within the said Province Premisses and Coastes and to appoynt what reasonable Tolles shalbee paid for the same and the same Tolles to receive take and enjoye to the said Sir Fardinando Gorges his heires and assignes to his and theire use without accompte to bee therefore made to us our heirs or successors any use custume matter or thinge to the contrary thereof notwithstandinge Saveing allwayes to all our Subjects of this our Kingdome of England Libertie of Fisheing aswell in the sea as in the Creekes of the said Province and Premisses aforesaid and the Priviledge of Salteing and dryeing of theire Fishe and Dryeing theire netts uppon the Shoare of the said Province and any the Premisses any thinge to the contrary thereof notwithstanding which said Liberties and Priviledges our pleasure is that the said subjects of us our heires and successors shall enjoye without any noteable dammage or injurie to bee done to the said Sir Fardinando Gorges his heires and assignes or the Inhabitants of the said Province or any of the Premisses or in any of the said Portes Creekes or Shoares aforesaid but chiefely in the Woodes there groweing And Wee doe further for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes full power and authoritie to divide all or anie parte of the Territories hereby graunted or menconed to bee graunted as aforesaid into Provinces Counties Citties Townes Hundreds and Parishes or such other partes or porcons as hee or they shall thinke fitt and in them every or any of them to appoynt and allott out such porcons of Lande for publique uses Ecclesiasticall and Temporall of what kinde soever and to distribute graunte assigne and sett over such particuler porcons of the said Territories Counties Landes and Premisses unto such our subjects or the subjects of any other State or Prince then in amytie with us our heires or successors for such estates and in such manner and forme as to the said Sir Fardinando Gorges his heires or assignes shall seeme meete and convenient and the said person and persons according to the said Estate and Estates soe assigned and graunted to have and enjoye the same and to make erect and ordeyne in and uppon the said Province and Premisses or in and uppon any of them or any parte or parcell of

them soe many severall and distincte Mannors as to the said Sir Fardinando Gorges his heires and assignes from tyme to tyme shall seeme meete and to the same severall Mannors to assigne lymitt and appoynt soe much lande distinctely and severallie for demeasne Landes of the said severall Mannors and every of them as to the said Sir Fardinando Gorges his heires and assignes shall and may seeme necessary and fitt and the said Mannors or any of them to call by such name and names as the said Sir Fardinando Gorges his heirs and assignes shall please the said Mannors to bee houlden of the said Sir Fardinando Gorges his heires and assignes by such services and Rents as to him or them shall seeme meete And alsoe that the said Sir Fardinando Gorges his heires and assignes shall and may att theire pleasure graunte in freehoulde soemuch of the said demeasne Landes Tenements and Hereditaments belonging or to bee belonging to any of the said Mannors to any person or persons theire heires or assignes for and under such rentes and services as to the said Sir Fardinando Gorges his heires or assignes shalbee thought fitt to bee houlden of the said Sir Fardinando Gorges his heires and assignes as of the said Mannors or any of them respectively the Acte of Parliament made and enacted in the eighteenth yeare of King Edward the First commonly called (Quia Emptores Terrarum) or any other Statute whatsoever or any other matter or thinge whatsoever to the contrary thereof in any wise notwithstandinge And that hee the said Sir Fardinando Gorges his heires and assignes shall have houlde and keepe within the said severall Mannours soe to bee erected suche and soe many Courtes aswell Courte Leetes as Courtes Barons as to our Lawes and Statutes of England shalbee agreeable And Wee Doe further for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes for ever all Admirall Rights Benefitts and Jurisdiccons and likewise all Priviledges and Commodities to the said Admirall Jurisdiccons in any wise belonging or apperteyning in and uppon the Seas Rivers and Coastes of or belonging to the said Province and Premisses or every or any of them or to the same adjoyneing within twentie leagues of the said Province and Premisses or any of them and in and uppon all other Rivers and Creekes thereof And likewise power to heare and determine all manner of Pleas for and concerning the same Saveing allwayes to us our heires and successors and to the Lord High Admirall of England for the tyme being of us our heires and successors all and all manner of Jurisdiccons Rights Powers Benefitts and authorities whatsoever incident or belonging to the said office of Admirall which itt shalbee lawfull from tyme to tyme to us our heires or successors or the Lord High Admirall of England for the tyme being to have use and exercise within the said Province and Premisses and the Seas or Rivers thereof or within twentie leagues of the same as aforesaid when wee shall thinke fitt And Wee Doe for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes full power and authoritie att any time or times hereafter by him or themselves or by his or theire Deputies to administer reasonable oathes to all Judges Justices Magistrates and other officers whatsoever by the said Sir Fardinando Gorges his heires and assignes his or theire deputyes to be elected att the eleccon of them to theire severall offices and places or within convenient time after And alsoe that hee the said Sir Fardinando Gorges his heires and assignes shall have full power and authoritie aswell by him and themselves as by his or their deputie or other Chiefe Magistrate or Officer by him or them to bee in that behalfe appointed to give and administer reasonable oathes to all or any person or persons of what degree or qualitie soever imployed or to be ymployed in or about the said Province Premisses and Territories aforesaid or anie of them or in or about the coasts of the same And likewise to all or any Inhabitants and others that shalbee or remayne within the said Province and Premisses or any of them for the true and faithfull execucon and performaunce of theire severall charges and places or for the exaiacon and cleareing the truth and likewise for the Informacon and better direccon of his and theire judgments in any matter or cause whatsoever concerning the said Sir Fardinando Gorges his heires or assignes or any Inhabitant member or Person belonging or repayring unto the said Province and Premisses or any of them or any parte of them And in all causes Accons Suits and Debates there to bee begun and prosecuted as the nature of the cause shall require And further of our more espeaciall

grace certeyne knowledge and meere mocon Wee Doe hereby for us our heires and successors graunte unto the said Sir Fardinando Gorges his heires and assignes that itt shall and may bee lawfull to and for the said Sir Fardinando Gorges his heires and assignes and every of them from tyme to tyme to sett to Sea such and soe many Shipps Pinnaces Barges Boates and other Vessells as shalbee thought fitt by the said Sir Fardinando Gorges his heires and assignes prepared and furnished with Ordinances Artillery Powder Shott Victualls Municon or other Weapons or Abiliments of War aswell invasive as defensive in warlike manner or otherwise and with such number of Men Weomen and Children as the said Sir Fardinando Gorges his heires or assignes shall thinke fitt such voyage into the said Islands and Places or any parte thereof aswell for the Plantacon and Fortificacon thereof as otherwise And that these Presents shalbee a sufficient Lycense and Warrant for any person or persons that shalbee by him or them sent and ymployed thither to goe beyonde the Seas and in that manner soe as the persons soe to bee shipped sent or transported as aforesaid bee not such as are or for the tyme being shalbee prohibited by Proclamacon of us our heires or successors or by any order or orders of the Lords or others Commissioners for Forraigne Plantacons for the tyme being And Wee Doe for us our heires and successors further graunte to and with the said Sir Fardinando Gorges his heires and assignes that onely hee the said Sir Fardinando Gorges his heires and assignes and his and theire Factors Agents and such as shalbee imployed sent lycensed or allowed by him or them and noe other person or persons whatsoever excepte before excepted shall repayre or goe into the said Province of Mayne and Premisses aforesaid and the places within the lymitts and coasts thereof or any of them to dwell inhabite or abide there nor have use or enjoye the libertie use and priveledges of trade or traffique unto in or from the said Province and Premisses or any of them or buying selling bartering or exchangeing for or with any Wares Goodes or Merchanndizes there whatsoever And likewise that itt shall and may bee lawfull to and for the said Sir Fardinando Gorges his heires and assignes and for all and every other person and persons that shalbee lycensed or allowed by the said Sir Fardinando Gorges his heires or assignes from henceforth and at all other tymes and from tyme to tyme after the date of these our Letters Patents according to the orders and constitucons of the said Sir Fardinando Gorges his heires and assignes not being repugnant to our Proclamacons and Orders of the Lords and others our Commissioners as aforesaid to take convey carrie and transport for and towards the Plantacon of the said Province and Premisses or any of them or to bee used there or in the passage thither or returning from thence and there to leave abide and inhabite all such and soe many of our loveing subjects or any other Strangers that will become our subjects and live under our alleagiance as shall willingly transport themselves or bee transported thither and that such our subjects or Strangers may togeather with theire persons send carrie or convey thither aswell Shipping Armour Weapons Ordinance Municon Powder Shott and Habiliments of Warr as Victualls Canvas Lynnen Woollen Cloath Tooles Ymplements Furniture Twyne and Pullen Goodes Wares and Merchandizes of all kindes and sortes whatsoever fitt and necessary for the foode lyvelyhood habitacon apparrell or Defence of our subjects which shall there inhabite and bee and all other Wares Merchandizes and Goods whatsoever not prohibited by the Lawes or Statutes of this our Kingdome payeing customes and other duties as other our subjects doe in such cases And of our further Royall favour Wee have graunted And by these Presents for us our heires and successors Wee Doe graunte unto the said Sir Fardinando Gorges his heires and assignes that the aforesaid Province Rivers and Places hereby before menconed to bee graunted or any of them shall not bee traded in or unto nor inhabited by any of the subjects of us our heires and successors without the speaciall lycense of the said Sir Fardinando Gorges his heires and assignes And therefore Wee Doe hereby for us our heires and successors charge and comand prohibite and forbidd all the subjects of us our heires and successors of what degree qualitie or condicon soever they bee that none of them directlie or indirectlie presume to trade or adventure to traffique into or from nor to inhabite or abide in the said Province of Mayne Island Dominion and Places hereby menconed or intended to bee graunted or any of them other then the said Sir Fardinando

Gorges his heires and assignes and his and theire deputies and factors unles itt bee with the license and consent of the said Sir Fardinando Gorges his heires and assignes first had and obteyned in that behalf in writeinge under his and theire hands and seales under payne of our indignacon and alsoe of suche penaltyes and punishments as by the Lawes and Ordinances of the said Sir Fardinando Gorges his heires and assignes to bee made in that behalfe shalbee appoynted And Wee Doe further for us our heires and successors graunte unto the said Sir Fardinando Gorges his heires and assignes that all and every the persons being the subjects of us our heires and successors which shall goe or inhabite within the said Province and Premisses or any of them and all and everie the children and posteritie discending of English Scottish or Irish Parents which shall happen to be borne within the same or uppon the seas in passing thither or from thence from henceforth ought to bee and shalbee taken and reputed to bee of the alleagiance of us our heires and successors and shalbee and soe shalbee forever hereafter esteemed to bee the naturall borne subjects of us our heires and successors and shall bee able to pleade and bee ympleaded and shall have power and bee able to take by discent purchase or otherwise Landes Tenements and Hereditaments and shall have and injoy all Liberties Francheses and Immunityes of or belonging to any the naturall borne subjects of this our Kingdome of England within this our Kingdome and within all or anie other of our Domynions to all intents and purposes as if they had beene abydeing and borne within this our Kingdome or any other of our Dominions And Wee Doe further for us our heires and successors give full power and authoritie to the said Sir Fardinando Gorges his heires and assignes or any person or persons to bee thereunto nominated by the said Sir Fardinando Gorges his heires or assignes to minister and give Oathes of Alleagiance and supremacie according to the formes now established in this our Realme of England to all and every such person and persons as they shall thinke fitt that shall att any tyme or tymes goe or passe into the said Province and Places or any of them or shalbee resident or abideing there And our further Will and pleasure is and Wee Doe by these Presents for us our heires and successors Covenant promise and graunte to and with the said Sir Fardinando Gorges his heires and assignes that if hee the said Sir Fardinando Gorges his heires or assignes shall att any tyme or tymes hereafter uppon any doubte which hee or they shall conceave concerning the validitie and strength of this our present graunte bee desireous to renewe the same from us our heires or successors with amendment of such ymperfeccons and defects as shall appeare fitt and necessary to bee reformed and amended by us our heires and successors that then uppon the humble peticon of the said Sir Fardinando Gorges his heires and assignes such further and better assurance of all and singuler the Premisses hereby graunted or menconed or intended to bee graunted according to the true meaneing of these our Letters Patents shall from tyme to tyme by us our heires and successors bee made and graunted unto the said Sir Fardinando Gorges his heires and assignes as by the Attorney Generall of us our heires and successors for the tyme being and the Learned Councell of the said Sir Fardinando Gorges his heires and assignes shall in that behalfe bee reasonably devised or advised And further Wee Doe hereby for us our heires and successors chardge and commaunde all and singuler Admiralls Viceadmiralls Generalls Comaunders Captaynes Justices of Peace Maiors Sheriffs Bayliffs Constables Customers Comptrollers Collectors Waiters Searchers and all other the officers and Ministers of us our heires and successors whatsoever aswell nowe as hereafter for the tyme being to bee from tyme to tyme in all things aydeing and assisting unto the said Sir Fardinando Gorges his heires and assignes and to his and theire officers Factors and agents and to every or any of them uppon request made as they tender our pleasure and will avoyde the contrary att their perills And Wee Doe will and for us our heires and successors Doe declare and ordeyne that the said Province and Premisses shalbee ymediately subject to our Crowne of Englande and dependant upon the same for ever And further Wee Will and by these Presents for us our heires and successors Doe graunte to the said Sir Fardinando Gorges his heires and assignes that these our Letters Patents or the enrollment of them shalbee in all things and to all intents and purposes firme good effectuall and sufficient in the lawe against us our heires and successors aswell in all Courts as elsewhere

within our Kingdome of England or in any other our Kingdomes and Domynions as in the said Province and Premisses aforesaid or in any of them and shalbee construed reputed and taken aswell according to the true meaning and intent as to the wordes of the same most benignely favorably and beneficially to and for the said Sir Fardinando Gorges his heires and assignes (noe interpretacon being made of any worde or sentence Whereby Gods worde true Christian Religion now taught professed and maynteyned the fundamentall Laws of this Realme or Alleagiance to us our heires or successors may suffer prejudice or diminucon) any omission misinformacon want of certaine expresse of the contents lymitts and boundes or the certeyne scituacon of the said Province and Premisses aforesaid hereby meant or menconed to be graunted or in what height longitude or degrees the same are or any defect in these Presents or any Lawe Statute or other cause or matter to the contrary notwithstanding And although expresse mencon bee not made of the true yearely value or certeyntie of the Premisses or any of them and notwithstanding any misnameing and not certeyne or particuler nameing of the said Province Places Landes Territories Hereditaments and Premisses whatsoever before by these Presents given graunted confirmed or menconed and intended to bee graunted or confirmed or any parte thereof or the misnameing or not nameing or not rightly nameing of the degrees and Coasts wherein or whereuppon the same or any of them doe lie or any Acte of Parliament Statute Ordinaunce Proclamacon or restraint heretofore made ordeyned or provided or any other thinge cause or matter to the contrary notwithstanding Nevertheless our intent and meaneing is that out of the Premisses hereby graunted or menconed to bee graunted there shalbee always saved and reserved to all and every such person and persons as have or hath any lawefull graunte or graunts of Landes or Plantacons lawfully setled in the division and Premisses aforesaid the free houlding and enjoyeing of his and theire right with the Liberties thereunto apperteyning hee or they relinquishing and layeing downe all his or theire Jura Regalia (if hee or they have any) to the said Sir Fardinando Gorges his heires and assignes whome wee have hereby made Proprietor of the Province or Devision and Premisses aforesaid and payeing some small acknowledgement to the said Sir Fardinando Gorges his heires and assignes for that hee or they are now to houlde theire said Landes anew of the said Sir Fardinando Gorges his heires and assignes In Wittnes &c Wittnes our selfe att Westminister the third day of Aprill—

P. Bre. Privato Sigillo.

GRANT OF THE PROVINCE OF MAINE—1664.

CHARLES the Second by the Grace of God King of England Scotland Ffrance and Ireland Defender of the Ffaith &c. to all to whom these presents shall come Greeting

Know yee that wee for divers good causes and consideracons us thereunto moving have of our especiall Grace certaine knowledge and meere motion given granted and by these presents for us our heires and successors do give and grant unto our dearest brother James Duke of Yorke his heires and assigns all that part of the maine land of New England begining at a certaine place called or knowne by the name of St. Croix next adjoyning to New Scotland in America and from thence extending along the sea coast unto a certain place called Petuaquine or Pemaquid and so up the River thereof to the furthest head of ye same as it tendeth northwards and extending from thence to the River Kinebequi and so upwards by the shortest course to the River Canada northward and also all that Island or Islands commonly called by the severall name or names of Matowacks or Lond Island scituate lying and being towards the west of Cape Codd and ye narrow Higansetts abutting upon the maine land between the two Rivers there called or knowne by the severall names of Conecticutt and Hudsons River together also with the said river called Hudsons River and all the land from the west side of Conecticutt to ye east side of Delaware Bay and also all those severall Islands called or knowne by the names of Martin's Vin-

yard and Nantukes otherwise Nantuckett together with all ye lands islands soyles rivers harbours mines minerals quarryes woods marshes waters lakes ffishings hawking hunting and ffowling and all other royalltyes proffitts commodityes and hereditaments to the said severall islands lands and premisses belonging and appertaining with theire and every of theire appurtenances and all our estate right title interest benefitt advantage claime and demand of in or to the said lands and premises or any part or parcell thereof and the revercon and revercons remainder and remainders together with the yearly and other ye rents revenues and proffitts of all and singular the said premisses and of every part and parcell thereof to have and to hold all and singular the said lands islands hereditaments and premisses with their and every of their appurtenances hereby given and granted or hereinbefore menconed to be given and granted unto our dearest brother James Duke of Yorke his heires and assignes forever to the only proper use and behoofe of the said James Duke of Yorke his heires and assignes forever to be holden of us our heires and successors as of our mannor of East Greenwich in our county of Kent in ffree and common soccage and not in capite nor by Knight service yielding and rendring and the said James Duke of Yorke doth for himselfe his heires and assignes covenant and promise to yield and render unto us our heires and successors of and for the same yearly and every yeare forty Beaver skins when they shall be demanded or within ninety days after and wee do further of our speciall grace certaine knowledge and meere mocon for us our heires and successors give and grant unto our said dearest brother James Duke of Yorke his heires deputyes agents commissioners and assignes by these presents full and absolute power and authority to correct punish pardon governe and rule all such the subjects of us our heires and successors from time to time adventure themselves into any of the parts or places aforesaid or that shall or doe at any time hereafter inhabite within the same according to such lawes orders ordinances direccons and instruments as by our said dearest brother or his assignes shall be established and in defect thereof in cases of necessity according to the good direccons of his deputyes commissioners officers and assignes respectively as well in all causes and matters capitall and criminall as civill both marine and others soe alwayes as the said statutes ordinances and proceedings be not contrary to but as neare as conveniently may be agreeable to the lawes statutes and government of this our realme of England and saving and reserving to us our heires and successors ye receiving hearing and determining of the appeal or appeales of all or any person or persons, of in or belonging to ye territoryes or islands aforesaid in or touching any judgment or sentence to be there made or given. And further that it shall and may be lawfull to and for our said dearest brother his heires and assignes by these presents from time to time to nominate make constitute ordaine and confirme by such name or names stile or stiles as to him or them shall seeme good and likewise to revoke discharge change and alter as well all and singular Governors officers and Ministers which hereafter shall be by him or them thought fitt and needfull to be made or used within the aforesaid parts and islands and also to make ordaine and establish all manner of orders lawes directions instruccons formes and ceremonyes of government and magistracy fitt and necessary for and concerning the government of the territoryes and islands aforesaid so alwayes as the same be not contrary to the lawes and statutes of this our Realme of England but as neare as may be agreeable thereunto and the same at all times hereafter to put in execucon or abrogate revoke or change only within the precincts of the said territoryes or islands but also upon the seas in going and coming to and from the same as he or they in their good discrecons shall thinke to be fitted for the good of the adventurers and inhabitants there And wee do further of our speciall grace certaine knowledge and meere mocon grant ordaine and declare that such governors officers and ministers as from time to time shall be authorized and appointed in manner and forme aforesaid shall and may have full power and authority to use and exercise martiall law in cases of rebellion insurreccon and mutinie in as large and ample manner as our Lieutenants in our countyes within our Realme of England have or ought to have by force of their commission of Lieutenancy or any law or statute of this our Realme And wee do further by these presents for us our heires and successors grant unto our said dearest brother James Duke of Yorke his heires and assignes that it shall and may be

lawfull to and for the said James Duke of Yorke his heires and assignes in his or theire discrecons from time to time to admit such and so many person and persons to trade and traffique unto and within the terrytoryes and islands aforesaid and into every and any part and parcell thereof and to have possesse and enjoy any lands or hereditaments in ye parts and places aforesaid as they shall thinke fitt according to the lawes orders constitucons and ordinances by our said brother his heires deputyes commissioners and assignes from time to time to be made and established by vertue of and according to the true intent and meaning of these presents and under such condicons reservacons and agreements as our said brother his heires or assignes shall set downe order direct and appoint and not otherwise as aforesaid And wee do further of our especiall grace certaine knowledge and meere mocon for us our heircs and successors give and grant to our said deare brother his heires and assignes by these presents that it shall and may be lawfull to and for him them or any of them at all and every time and times hereafter out of any of our realmes or dominions whatsoever to take leade carry and transport in and into their voyages and for and towards the plantacons of our said territoryes and islands all such and so many of our loving subjects or any other strangers being not prohibited or under restraint that will become our loving subjects and live under our alegiance as shall willingly accompany them in the said voyages together with all such cloathing implements furniture and other things usually transported and not prohibited as shall be necessary for the inhabitants of the said islands and territoryes and for theire use and defence thereof and manageing and carrying on the trade with the people there and in passing and returning to and fro yielding and paying to us our heires and successors the customes and dutyes therefore due and payable according to the lawes and customes of this our Realme And we do also for us our heires and successors grant to our said dearest brother James Duke of Yorke his heires and assignes and to all and every such governor or governors or other officers or ministers as by our said brother his heires or assignes shall be appointed to have power and authority of government and command in or over the inhabitants of the said territoryes or islands that they and every of them shall and lawfully may from time to time and at all times hereafter forever for theire severall defence and safety encounter expulse repell and resist by force of arms as well by sea as by land and all wayes and means whatsoever all such person and persons as without the speciall licence of our said deare brother his heires or assignes shall attempt to inhabit within the severall precincts and limitts of our said territoryes and islands and also all and every such person and persons whatsoever as shall enterprize or attempt at any time hereafter the destruccon or invasion detriment or annoyance to ye parts places or islands aforesaid or any parte thereof and lastly our will and pleasure is and wee do hereby declare and grant that these our letters patents or the enrollment thereof shall be good and effectuall in the law to all intents and purposes whatsoever notwithstanding the not reciting or menconing of the premises or any part thereof or the meets or bounds thereof or of any former or other presents patents or grants heretofore made or granted of the premisses or of any part thereof by us or any of our progenitors unto any other person or persons whatsoever bodyes politique or corporate or any act law or other restraint incertainty or imperfection whatsoever to the contrary in any wise notwithstanding althoughe expresse mencon of the true yearly value or certainty of the premises or any of them or of any other guifts or grants by us or by any of our progenitors or predecessors heretofore made to the said James Duke of Yorke in these presents is not made or any statute act ordinance provision proclamacon or restriction heretofore had made enacted ordained or provided or any other matter cause or thing whatsoever to the contrary thereof in any wise notwithstanding.

In witnesse whereof wee have caused these our letters to be made pattents.—Witnesse ourselfe at Westminster the twelveth day of March in the sixteenth yeare of our raigne.

By the King:

50 O L HOWARD

GRANT OF THE PROVINCE OF MAINE—1674.

CHARLES the Second by the Grace of God King of England Scotland France and Ireland Defender of the Ffaith &c. To all to whom these presents shall come Greeting: Know yee that wee for divers good causes and consideracons have of our especiall grace certaine knowledge and meer motion given and granted and by these presents for us our heirs and successors do give and graunt unto our dearest brother James Duke of Yorke his heires and assigns All that part of the main land of New England, beginning at a certaine place called or known by the name of St. Croix nexe adjoining to New Scotland in America and from thence extending along the seacoast unto a certaine place called Petuaquine or Pemaquid and so up the river thereof to the furthest head of the same as it windeth northward and extending from the river of Kinebeque and so upwards by the shortest course to the river Canada northwards: And and all that Island or Islands commonly called by the severall name or names of Matowacks or Long Islands scituate and being towards the west of Cape Cod and the narrow Higansetts abutting upon the main land between the two rivers there called or known by the severall names of Connecticutt and Hudson's River together also with the said river called Hudson's River and all the lands from the west side of Connecticutt River to the east side of Delaware Bay: And also all those severall Islands called or known by the names of Martin Vin Yard and Nantukes otherwise Nantuckett: Together with all the lands Islands soiles rivers harbors Mines Mineralls Quarries woods marshes waters Lakes ffishings Hawking hunting and ffowling and all other royalties proffits Commodities and hereditaments to the said severall Islands Lands and premises belonging and appertaining with their and every of their appurtenants: And all our Estate right title and interest benefit and advantage claime and demand of in or to the said lands or premises or any part or parcell thereof and the revercon and revercons remainder and remainders together with the yearly and other rents revenues and proffits of the premises and of every part and parcell thereof To have and to hold all and singular the said lands and premises with their and every of their appurtents hereby given and graunted or herein before mentioned to be given and graunted unto our said dearest brother James Duke of Yorke his heirs and assigns forever: To bee holden of us our heirs and successors as of our Manor of East Greenwich, in our county of Kent in free and common soccage and not in capite nor by Knight service yielding and rendering: And the said James Duke of Yorke for himself his heirs and assignes doth covenant and promise to yield and render unto Us our heirs and successors of and for the same yearly and every year fforty Beaver Skins when they shall bee demanded or within ninety days after such demand made and wee do further, of our speciall grace certaine knowledge and meer motion for Us Our heirs and successors give and graunt unto our said Dearest brother James Duke of Yorke his heirs Deputyes Agents Commissioners and assignes by these presents full and absolute power and authority to correct punish pardon govern and rule all such the subjects of us our heirs and successors or any other person or persons as shall from time to time adventure themselves into any of the parts or places aforesaid or that shall or do at any time hereafter inhabit within the same according to such Lawes orders ordinances directions and instructions as by our said dearest brother or his assignes shall bee established and in defect thereof in cases of necessity according to the good direccons of his Deputyes Commissioners Officers or Agents respectively as well in all cases and matters capitall and criminall as Civill Marine and Others so alwayes as the said Statutes ordinances and proceedings bee not contrary to but as neare as may bee agreeable to the Lawes Statutes and Government of this our realm of England and saving and reserving to Us our heirs and successors the receiving hearing and determining of the appeal and appeals of all or any person or persons of in or belonging to the Territoryes or Islands aforesaid or touching any Judgment or sentence to bee there made or given And further that it shall and may bee lawfull to and for our said dearest brother his heirs and assigns by these presents from time to time to nominate make constitute ordaine and confirme such Lawes as aforesaid by such name or names stile or stiles as to him or them shall

seem good And likewise to revoke discharge change and alter as well all and singular Governors officers and ministers which hereafter shall be by him or them thought fit and needfull to be made or used within the aforesaid Islands and parts: And also to make ordaine and establish all manner of lawes orders direccons instructions formes and ceremonyes of Government and Magistracy fit and necessary for and concerning the Government of the Territoryes and Islands aforesaid so always as the same bee not contrary to the Lawes and Statutes of this our realme of England, but as neare as may bee agreeable thereunto and the same at all times hereafter to put in execution abrogate revoke or change not onely within the precincts of the said Territoryes or Islands but also upon the seas in going and coming to and from the same as hee or they in their good discretions shall think fittest for the good of the adventurers and inhabitants And wee do further of our Especiall Grace certaine knowledge and meer motion graunt ordaine and declare that such Governors Deputyes Officers and Ministers as from time to time shall bee authorized and appointed in manner and fforme aforesaid shall and may have full power and authority within the Territoryes aforesaid to use and exercise Marshall Lawe in cases of rebellion insurrection and Mutiny in as large and ample manner as our Lieutenants in our Countyes within Our realme of England have or ought to have by force of their Commission of Lieutenancy or any law or Statute of this our realme: And Wee do further by these presents for us our heirs and successors graunt unto Our said dearest brother James Duke of Yorke his heirs and assignes that it shall and may be lawfull to and for the said James Duke of Yorke his heirs and assignes in his or their discrescon from time to time to admit such and so many person and persons to trade and trafficke into and and within ye Territoryes and Islands aforesaid and into every or any of the Territoryes and Islands aforesaid and into every or any part and parcell thereof: And to have possess and enjoy any Lands and hereditaments in the parts and places aforesaid as they shall think fit according to the Lawes orders constitutions and ordinances by our said brother his heirs deputyes Commissioners and assignes from time to time to bee made and established by vertue of and according to the true intent and meaning of these presents and under such condicons reservacons and agreements as our said dearest brother his heirs and assigns shall set downe order direct and appoint and not otherwise as aforesaid And we do further of our Especiall Grace certaine knowledge and meer motion for us our heires and successors give and graunt unto our said deare brother his heirs and assigns by these presents that it shall and may be lawfull to and for him them or any of them at all and Every time and times hereafter out of any of our realms or dominions whatsoever to take lead carry and transport in and into their voyages for and towards the Plantacons of our said Territoryes and Islands aforesaid all such and so many of our loving subjects or any other strangers being not prohibited or under restraint that will become our loving subjects and live under our allegiance and shall willingly accompany them in the said voyages together with all such cloathing implements ffurniture and other things usually transported and not prohibited as shall be necessary for the inhabitants of the said Islands and territoryes and for their use and defence thereof and managing and carrying on the trade with the people there and in passing and returning to and fro Yielding and paying to us our heirs and successors the customes and dutyes therefore due and payable according to the Lawes and Customes of this our realme And Wee do also for us our heirs and successors graunt to our said dearest brother James Duke of Yorke his heirs and assignes and to all and every such Governor or Governors Deputyes their Officers or Ministers as by our said brother his heirs or assignes shall bee appointed to have power and authority of government or command in or over the inhabitants of the said Territoryes or Islands that they or every of them shall and lawfully may from time to time and at all times forever hereafter for their severall defence and safety encounter repulse and Expell and resist by force of armes (as well by sea as by land) and all wayes and means whatsoever all such person and persons as without the speciall licence of our dearest brother his heirs and assignes shall attempt to inhabit within the severall precincts and limits of our said Territoryes and Islands and also all and every such person and persons whatsoever as shall enterprize and attempt at any time hereafter the destruccon invasion detriment or

annoyance to the parts places or Islands aforesaid or any part thereof And lastly our will and pleasure is and We do hereby declare and graunt that these our Letters Patents or the enrolment thereof shall bee good and Effectuall in the Law to all intents and purposes whatsoever notwithstanding the not well and true reciting or menconing of the premises or any part thereof or the limits or bounds thereof or of any former or other Letters Patents or graunts whatsoever made or graunted or of any part thereof by us or any of our progenitors unto any person or persons whatsoever bodyes politick or corporate or any law or other restraint incertainty or imperfeccon whatsoever to the contrary in any wise notwithstanding although Expresse mention of the true yearly value or certainty of the premises or of any of them or of any other guifts or graunts by us or by any of our progenitors heretofore made to the said James Duke of Yorke in these presents is not made or any statute act ordinance provision proclamation or restriction heretofore had made enacted or provided or any other matter cause or thing whatsoever to the contrary thereof in any wise notwithstanding. In witnesse whereof Wee have caused these our Letters to bee made Patents Witnesse Our Selfe at Westm. the 29th day of June in the 26th yeare of our reigne.

PIGOTT.

THE SECOND CHARTER OF MASSACHUSETTS BAY—1691.*

[See "Massachusetts," pages 942–954.]

THE CONSTITUTION OF MAINE—1820.†

We, the people of Maine, in order to establish justice, insure tranquillity, provide for our natural defence, promote our common welfare, and secure to ourselves and our posterity the blessings of liberty, acknowledging, with grateful hearts, the goodness of the Sovereign Ruler of the Universe in affording us an opportunity so favorable to the design, and imploring His aid and direction in its accomplishment, do agree to form ourselves into a free and independent State, by the style and title of the State of Maine, and do ordain and establish the following constitution for the government of the same:

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men are born equally free and independent, and have certain natural, inherent, and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.

SEC. 2. All power is inherent in the people; all free governments are founded in their authority, and instituted for their benefit; they have, therefore, an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it.

SEC. 3. All men have a natural and unalienable right to worship Almighty God

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* This charter incorporated the provinces of Maine and of Acadia or Nova Scotia with the colonies of Massachusetts Bay and of Plymouth into "one Royal Province, by the name of the Royal Province of Massachusetts Bay." The right of government thus acquired over the "District of Maine" was exercised by Massachusetts until 1819.

† Massachusetts, by an act of her legislature, passed June 19, 1819, submitted the question of separation to the people of Maine, who, on July 19, 1819, gave 17,091 votes in favor of forming an independent State, against 7,132 votes. This constitution was formed by a convention which met at Portland October 11, 1819, and completed its labors October 29, when it adjourned until January 5, 1820, to receive the votes of the people on their work at a special election. The result was the ratification of the constitution, which received 9,040 against 796, in addition to the illegal or unseasonable votes, of which there were 985 for ratification against 77.

according to the dictates of their own consciences, and no one shall be hurt, molested, or restrained in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience, nor for his religious professions or sentiments, provided he does not disturb the public peace, nor obstruct others in their religious worship; and all persons demeaning themselves peaceably, as good members of the State, shall be equally under the protection of the laws, and no subordination nor preference of any one sect or denomination to another shall ever be established by law, nor shall any religious test be required as a qualification for any office or trust under this State; and all religious societies in this State, whether incorporate or unincorporate, shall at all times have the exclusive right of electing their public teachers, and contracting with them for their support and maintenance.

SEC. 4. Every citizen may freely speak, write, and publish his sentiments on any subject, being responsible for the abuse of this liberty. No laws shall be passed regulating or restraining the freedom of the press; and, in prosecutions for any publication respecting the official conduct of men in public capacity, or the qualifications of those who are candidates for the suffrages of the people, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury, after having received the direction of the court, shall have a right to determine, at their discretion, the law and the fact.

SEC. 5. The people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without a special designation of the place to be searched, and the person or thing to be seized, nor without probable cause, supported by oath or affirmation.

SEC. 6. In all criminal prosecutions, the accused shall have a right to be heard by himself and his counsel, or either, at his election; to demand the nature and cause of the accusation, and have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have a speedy, public, and impartial trial; and, except in trials by martial law or impeachment, by a jury of the vicinity. He shall not be compelled to furnish or give evidence against himself, nor be deprived of his life, liberty, property, or privileges, but by judgment of his peers, or the law of the land.

SEC. 7. No person shall be held to answer for a capital or infamous crime, unless on a presentment or indictment of a grand jury, except in cases of impeachment, or in such cases of offences as are usually cognizable by a justice of the peace, or in cases arising in the army or navy, or in the militia when in actual service, in time of war or public danger. The legislature shall provide by law a suitable and impartial mode of selecting juries; and their usual number and unanimity, in indictments and convictions, shall be held indispensable.

SEC. 8. No person for the same offence shall be twice put in jeopardy of life or limb.

SEC. 9. Saguinary laws shall not be passed; all penalties and punishments shall be proportioned to the offence; excessive bail shall not be required nor excessive fines imposed, nor cruel nor unusual punishments inflicted.

SEC. 10. All persons, before conviction, shall be bailable except for capital offences, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SEC. 11. The legislature shall pass no bill of attainder, *ex post facto* law, nor law impairing the obligation of contracts, and no attainder shall work corruption of blood nor forfeiture of estate.

SEC. 12. Treason against this State shall consist only in levying war against it, adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or confession in open court.

SEC. 13. The laws shall not be suspended, but by the legislature or its authority.

SEC. 14. No person shall be subject to corporal punishment under military law, except such as are employed in the army or navy, or in the militia when in actual service, in time of war or public danger.

SEC. 15. The people have a right, at all times, in an orderly and peaceable manner, to assemble and consult upon the common good, to give instructions to their representatives, and to request of either department of the government, by petition or remonstrance, redress of their wrongs and grievances.

SEC. 16. Every citizen has a right to keep and bear arms for the common defence; and this right shall never be questioned.

SEC. 17. No standing army shall be kept up in time of peace, without the consent of the legislature; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

SEC. 18. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, but in a manner to be prescribed by law.

SEC. 19. Every person, for an injury done him in his person, reputation, property, or immunities, shall have remedy by due course of law; and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay.

SEC. 20. In all civil suits, and in all controversies concerning property, the parties shall have a right to a trial by jury, except in cases where it has heretofore been otherwise practised; the party claiming the right may be heard by himself and his counsel, or either, at his election.

SEC. 21. Private property shall not be taken for public uses without just compensation, nor unless the public exigencies require it.

SEC. 22. No tax or duty shall be imposed without the consent of the people or their representatives in the legislature.

SEC. 23. No title of nobility or hereditary distinction, privilege, honor, or emolument, shall ever be granted or confirmed; nor shall any office be created, the appointment to which shall be for a longer time than during good behavior.

SEC. 24. The enumeration of certain rights shall not impair nor deny others retained by the people.

ARTICLE II.

ELECTORS.

SECTION 1. Every male citizen of the United States of the age of twenty-one years and upwards, excepting paupers, persons under guardianship, and Indians not taxed, having his residence established in this State for the term of three months next preceding any election, shall be an elector for governor, senators, and representatives, in the town or plantation where his residence is so established, and the elections shall be by written ballot. But persons in the military, naval, or marine service of the United States, or this State, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack, or military place, in any town or plantation; nor shall the residence of a student at any seminary of learning entitle him to the right of suffrage in the town or plantation where such seminary is established.

SEC. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at, going to, and returning therefrom.

SEC. 3. No elector shall be obliged to do duty in the militia on any day of election, except in time of war or public danger.

SEC. 4. The election of governor, senators, and representatives shall be on the second Monday of September, annually, forever.

ARTICLE III.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of this government shall be divided into three distinct departments, the legislative, executive, and judicial.

SEC. 2. No person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted.

ARTICLE IV.—PART FIRST.

LEGISLATIVE POWER—HOUSE OF REPRESENTATIVES.

SECTION 1. The legislative power shall be vested in two distinct branches, a house of representatives and a senate, each to have a negative on the other, and both to be styled the legislature of Maine; and the style of their acts and laws shall be, "*Be it enacted by the senate and house of representatives in legislature assembled.*"

SEC. 2. The house of representatives shall consist of not less than one hundred nor more than two hundred members, to be elected by the qualified electors for one year from the next day preceding the annual meeting of the legislature. The legislature which shall first be convened under this constitution, shall, on or before the fifteenth day of August, in the year of our Lord one thousand eight hundred and twenty-one, and the legislature within every subsequent period of at most ten years, and at least five, cause the number of the inhabitants of the State to be ascertained, exclusive of foreigners not naturalized, and Indians not taxed. The number of representatives shall, at the several periods of making such enumeration, be fixed and apportioned among the several counties, as near as may be, according to the number of inhabitants, having regard to the relative increase of population. The number of representatives shall, on said first apportionment, be not less than one hundred nor more than one hundred and fifty; and whenever the number of representatives shall be two hundred, at the next annual meetings of elections, which shall thereafter be had, and at every subsequent period of ten years, the people shall give in their votes whether the number of representatives shall be increased or diminished; and if a majority of votes are in favor thereof, it shall be the duty of the next legislature thereafter to increase or diminish the number by the rule hereinafter prescribed.

SEC. 3. Each town having fifteen hundred inhabitants may elect one representative; each town having three thousand seven hundred and fifty may elect two; each town having six thousand seven hundred and fifty may elect three; each town having ten thousand five hundred may elect four; each town having fifteen thousand may elect five; each town having twenty thousand two hundred and fifty may elect six; each town having twenty-six thousand two hundred and fifty inhabitants may elect seven; but no town shall ever be entitled to more than seven representatives; and towns and plantations, duly organized, not having fifteen hundred inhabitants, shall be classed, as conveniently as may be, into districts containing that number, and so as not to divide towns; and each such district may elect one representative; and when on this apportionment, the number of representatives shall be two hundred, a different apportionment shall take place upon the above principle; and, in case the fifteen hundred shall be too large or too small to apportion all the representatives to any county, it shall be so increased or diminished as to give the number of representatives according to the above rule and proportion; and whenever any town or towns, plantation or plantations, not entitled to elect a representative, shall determine against a classification with any other town or plantation, the legislature may, at each apportionment of representatives, on the application of such town or plantation, authorize it to elect a representative for such portion of time, and such periods, as shall be equal to its portion of representation, and the right of representation, so established, shall not be altered until the next general apportionment.

SEC. 4. No person shall be a member of the house of representatives unless he shall, at the commencement of the period for which he is elected, have been five years a citizen of the United States; have arrived at the age of twenty-one years; have been a resident in this State one year, or from the adoption of this constitution; and for the three months next preceding the time of his election shall have been, and during the period for which he is elected shall continue to be, a resident in the town or district which he represents.

SEC. 5. The meetings for the choice of representatives shall be warned, in due course of law, by the selectmen of the several towns, seven days at least before the election; and the selectmen thereof shall preside impartially at such meetings, receive the votes of all the qualified electors present, sort, count, and declare them, in open town meeting, and in the presence of the town clerk, who shall form a list of the

persons voted for, with the number of votes for each person against his name, shall make a fair record thereof in the presence of the selectmen, and in open town meeting; and a fair copy of this list shall be attested by the selectmen and town clerk, and delivered by said selectmen to each representative within ten days next after such election. And the towns and plantations, organized by law, belonging to any class herein provided shall hold their meetings at the same time in the respective towns and plantations; and the town and plantation meetings in such towns and plantations shall be notified, held, and regulated, the votes received, sorted, counted, and declared in the same manner. And the assessors and clerks of plantations shall have all the powers, and be subject to all the duties, which selectmen and town clerks have and are subject to by this constitution. And the selectmen of such towns, and the assessors of such plantations so classed, shall, within four days next after such meeting, meet at some place, to be prescribed and notified by the selectmen or assessors of the eldest town or plantation in such class, and the copies of said lists shall be then examined and compared; and, in case any person shall be elected by a majority of all the votes, the selectmen or assessors shall deliver the certified copies of such lists to the person so elected, within ten days next after such election, and the clerks of towns and plantations, respectively, shall seal up copies of all such lists, and cause them to be delivered into the secretary's office twenty days at least before the first Wednesday in January, annually; but, in case no person shall have a majority of votes, the selectmen and assessors shall, as soon as may be, notify another meeting, and the same proceedings shall be at every future meeting until an election shall have been effected: *Provided*, That the legislature may, by law, prescribe a different mode of returning, examining, and ascertaining the election of the representatives in such classes.

SEC. 6. Whenever the seat of a member shall be vacated, by death, resignation, or otherwise, the vacancy may be filled by a new election.

SEC. 7. The house of representatives shall choose their speaker, clerk, and other officers.

SEC. 8. The house of representatives shall have the sole power of impeachment.

ARTICLE IV.—PART SECOND.

SENATE.

SECTION 1. The senate shall consist of not less than twenty nor more than thirty-one members, elected at the same time, and for the same term, as the representatives, by the qualified electors of the districts into which the State shall from time to time be divided.

SEC. 2. The legislature which shall be first convened under this constitution shall, on or before the fifteenth day of August, in the year of our Lord one thousand eight hundred and twenty-one, and the legislature at every subsequent period of ten years, cause the State to be divided into districts for the choice of senators. The district shall conform, as near as may be, to county lines, and be apportioned according to the number of inhabitants. The number of senators shall not exceed twenty at the first apportionment, and shall, at each apportionment, be increased until they shall amount to thirty-one, according to the increase in the house of representatives.

SEC. 3. The meetings for the election of senators shall be notified, held, and regulated, and the votes received, sorted, counted, declared, and recorded, in the same manner as those for representatives. And fair copies of the lists of votes shall be attested by the selectmen and town clerks of towns, and the assessors and clerks of plantations, and sealed up in open town and plantation meetings, and the town and plantation clerks, respectively, shall cause the same to be delivered into the secretary's office, thirty days at least before the first Wednesday of January. All other qualified electors, living in places unincorporated, who shall be assessed to the support of government by the assessors of an adjacent town, shall have the privilege of voting for senators, representatives, and governor in such town, and shall be notified by the selectmen thereof, for the purpose, accordingly.

SEC. 4. The governor and council shall, as soon as may be, examine returned copies

of such list, and, twenty days before the said first Wednesday of January, issue a summons to such persons as shall appear to be elected by a majority of the votes in each district, to attend that day and take their seats.

SEC. 5. The senate shall, on the said first Wednesday of January annually, determine who are elected by a majority of votes to be senators in each district; and, in case the full number of senators to be elected from each district shall not have been so elected, the members of the house of representatives, and such senators as shall have been elected, shall, from the highest number of the persons voted for, on said lists, equal to twice the number of senators deficient in every district, if there be so many voted for, elect, by joint ballot, the number of senators required; and in this manner all vacancies in the senate shall be supplied, as soon as may be, after such vacancies happen.

SEC. 6. The senators shall be twenty-five years of age at the commencement of the term for which they are elected, and in all other respects their qualifications shall be the same as those of the representatives.

SEC. 7. The senate shall have the sole power to try all impeachments, and, when sitting for that purpose, shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any office of honor, trust, or profit under this State; but the party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment, and punishment, according to law.

SEC. 8. The senate shall choose their president, secretary, and other officers.

ARTICLE IV.—PART THIRD.

LEGISLATIVE POWERS.

SECTION 1. The legislature shall convene on the first Wednesday of January, annually, and shall have full power to make and establish all reasonable laws and regulations for the defence and benefit of the people of this State, not repugnant to this constitution nor to that of the United States.

SEC. 2. Every bill or resolution, having the force of law, to which the concurrence of both houses may be necessary, except on a question of adjournment, which shall have passed both houses, shall be presented to the governor, and, if he approve, he shall sign it; if not, he shall return it, with his objections, to the house in which it shall have originated, which shall enter the objections at large on its journals and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass it, it shall be sent, together with the objections, to the other house, by which it shall be reconsidered, and, if approved by two-thirds of that house, it shall have the same effect as if it had been signed by the governor; but, in all such cases, the votes of both houses shall be taken by yeas and nays, and the names of the persons voting for and against the bill or resolution shall be entered on the journals of both houses, respectively. If the bill or resolution shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, it shall have the same force and effect as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall have such force and effect, unless returned within three days after their next meeting.

SEC. 3. Each house shall be the judge of the elections and qualifications of its own members, and a majority shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house shall provide.

SEC. 4. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause.

SEC. 5. Each house shall keep a journal, and from time to time publish its proceedings, except such parts as, in their judgment, may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journals.



SEC. 6. Each house, during its session, may punish, by imprisonment, any person, not a member, for disrespectful or disorderly behavior in its presence, for obstructing any of its proceedings, threatening, assaulting, or abusing any of its members for anything said, done, or doing in either house: *Provided*, That no imprisonment shall extend beyond the period of the same session.

SEC. 7. The senators and representatives shall receive such compensation as shall be established by law, but no law increasing their compensation shall take effect during the existence of the legislature which enacted it. The expenses of the members of the house of representatives, in travelling to the legislature and returning therefrom, once in each session, and no more, shall be paid by the State, out of the public treasury, to every member who shall seasonably attend, in the judgment of the house, and does not depart therefrom without leave.

SEC. 8. The senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at, going to, and returning from each session of the legislature, and no member shall be liable for anything spoken in debate in either house in any court or place elsewhere.

SEC. 9. Bills, orders, or resolutions may originate in either house, and may be altered, amended, or rejected in the other; but all bills for raising a revenue shall originate in the house of representatives, but the senate may propose amendments, as in other cases: *Provided*, That they shall not, under color of amendment, introduce any new matter, which does not relate to raising a revenue.

SEC. 10. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created or the emoluments of which increased during such term, except such offices as may be filled by elections by the people: *Provided*, That this prohibition shall not extend to members of the first legislature.

SEC. 11. No member of Congress, nor person holding any office under the United States, (post-officers excepted,) nor office of profit under this State, justices of the peace, notaries public, coroners, and officers of the militia excepted, shall have a seat in either house during his being such member of Congress or his continuing in such office.

SEC. 12. Neither house shall, during the session, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the houses shall be sitting.

ARTICLE V.—PART FIRST.

EXECUTIVE POWER.

SECTION 1. The supreme executive power of this State shall be vested in a governor.

SEC. 2. The governor shall be elected by the qualified electors, and shall hold his office one year, from the first Wednesday of January in each year.

SEC. 3. The meetings for election of governor shall be notified, held, and regulated, and votes shall be received, sorted, counted, declared, and recorded in the same manner as those for senators and representatives. They shall be sealed and returned into the secretary's office in the same manner and at the same time as those for senators. And the secretary of state for the time being shall, on the first Wednesday of January then next, lay the lists before the senate and house of representatives, to be by them examined, and, in case of a choice by a majority of all the votes returned, they shall declare and publish the same. But if no person shall have a majority of votes, the house of representatives shall, by ballot, from the persons having the four highest numbers of votes on the list, if so many there be, elect two persons, and make return of their names to the senate, of whom the senate shall, by ballot, elect one, who shall be declared the governor.

SEC. 4. The governor shall, at the commencement of his term, be not less than thirty years of age, a natural-born citizen of the United States, have been five years, or from the adoption of this constitution, a resident of the State, and, at the time of his election and during the term for which he is elected, be a resident of said State.

SEC. 5. No person holding any office or place under the United States, this State, or any other power, shall exercise the office of governor.

SEC. 6. The governor shall, at stated times, receive for his services a compensation, which shall not be increased or diminished during his continuance in office.

SEC. 7. He shall be commander-in-chief of the army and navy of the State, and of the militia, except when called into the actual service of the United States; but he shall not march nor convey any of the citizens out of the State without their consent, or that of the legislature, unless it shall become necessary, in order to march or transport them from one part of the State to another, for the defence thereof.

SEC. 8. He shall nominate and, with the advice and consent of the council, appoint all judicial officers, the attorney-general, the sheriff, coroners, registers of probate, and notaries public, and he shall also nominate and, with the advice and consent of the council, appoint all other civil and military officers whose appointment is not, by this constitution, or shall not by law be otherwise provided for; and every such nomination shall be made seven days at least prior to such appointment.

SEC. 9. He shall, from time to time, give the legislature information of the condition of the State, and recommend to their consideration such measures as he may judge expedient.

SEC. 10. He may require information from any military officer, or any officer in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 11. He shall have power, with the advice and consent of the council, to remit, after conviction, all forfeitures and penalties, and grant reprieves and pardons, except in cases of impeachment.

SEC. 12. He shall take care that the laws be faithfully executed.

SEC. 13. He may, on extraordinary occasions, convene the legislature; and, in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not beyond the day of the next annual meeting; and if, since their last adjournment, the place where the legislature were next to convene shall have become dangerous from an enemy or contagious sickness, may direct the session to be held at some other convenient place within the State.

SEC. 14. Whenever the office of governor shall become vacant by death, resignation, removal from office, or otherwise, the president of the senate shall exercise the office of governor until another governor shall be duly qualified; and, in case of the death, resignation, removal from office, or other disqualification of the president of the Senate, so exercising the office of governor, the speaker of the house of representatives shall exercise the office until a president of the senate shall have been chosen; and when the office of governor, president of the senate, and speaker of the house shall become vacant, in the recess of the senate, the person acting as secretary of state for the time being shall, by proclamation, convene the senate, that a president may be chosen to exercise the office of governor. And whenever either the president of the senate or speaker of the house shall so exercise said office, he shall receive only the compensation of governor, but his duties as president or speaker shall be suspended; and the senate or house shall fill the vacancy until his duties as governor shall cease.

ARTICLE V.—PART SECOND.

COUNCIL.

SECTION 1. There shall be a council, to consist of seven persons, citizens of the United States and residents of this State, to advise the governor in the executive part of the government, whom the governor shall have full power, at his discretion, to assemble; and he, with the councillors, or a majority of them, may, from time to time, hold and keep a council, for ordering and directing the affairs of state according to law.

SEC. 2. The councillors shall be chosen annually on the first Wednesday of January, by joint ballot of the senators and representatives in convention; and vacancies which shall afterwards happen shall be filled in the same manner; but not more than one councillor shall be elected from any district prescribed for the election of senators; and they shall be privileged from arrest in the same manner as senators and representatives.

SEC. 3. The resolutions and advice of council shall be recorded in a register, and signed by the members agreeing thereto, which may be called for by either house of the legislature; and any councillor may enter his dissent to the resolution of the majority.

SEC. 4. No member of Congress or of the legislature of this State, nor any person holding any office under the United States, (post-officers excepted,) nor any civil officers under this State, (justices of the peace and notaries public excepted,) shall be councillors. And no councillor shall be appointed to any office during the time for which he shall have been elected.

ARTICLE V.—PART THIRD.

SECRETARY.

SECTION 1. The secretary of state shall be chosen annually at the first session of the legislature, by joint ballot of the senators and representatives in convention.

SEC. 2. The records of the State shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable.

SEC. 3. He shall attend the governor and council, senate and house of representatives, in person or by his deputies, as they shall respectively require.

SEC. 4. He shall carefully keep and preserve the records of all the official acts and proceedings of the governor and council, senate and house of representatives, and, when required, lay the same before either branch of the legislature, and perform such other duties as are enjoined by this constitution, or shall be required by law.

ARTICLE V.—PART FOURTH.

TREASURER.

SECTION 1. The treasurer shall be chosen annually at the first session of the legislature, by joint ballot of the senators and representatives in convention, but shall not be eligible more than five years successively.

SEC. 2. The treasurer shall, before entering on the duties of his office, give bond to the State, with sureties, to the satisfaction of the legislature, for the faithful discharge of his trust.

SEC. 3. The treasurer shall not, during his continuance in office, engage in any business of trade or commerce, or as a broker, nor as an agent or factor for any merchant or trader.

SEC. 4. No money shall be drawn from the treasury but by warrant from the governor and council, and in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published at the commencement of the annual session of the legislature.

ARTICLE VI.

JUDICIAL POWER.

SECTION 1. The judicial power of this State shall be vested in a supreme judicial court, and such other courts as the legislature shall, from time to time, establish.

SEC. 2. The justices of the supreme judicial court shall, at stated times, receive a compensation, which shall not be diminished during their continuance in office, but they shall receive no other fee or reward.

SEC. 3. They shall be obliged to give their opinion upon important questions of law, and upon solemn occasions, when required by the governor, council, senate, or house of representatives.

SEC. 4. All judicial officers, except justices of the peace, shall hold their offices during good behavior, but not beyond the age of seventy years.

SEC. 5. Justices of the peace and notaries public shall hold their offices during seven years, if they so long behave themselves well, at the expiration of which term they may be re-appointed, or others appointed as the public interest may require.

SEC. 6. The justices of the supreme judicial court shall hold no office under the United States, nor any State, nor any other office under this State, except that of justice of the peace.

ARTICLE VII.

MILITARY.

SECTION 1. The captains and subalterns of the militia shall be elected by the written votes of the members of their respective companies; the field-officers of regiments by the written votes of the captains and subalterns of their respective regiments; the brigadier-generals, in like manner, by the field-officers of their respective brigades.

SEC. 2. The legislature shall, by law, direct the manner of notifying the electors, conducting the elections, and making the returns to the governor of the officers elected; and if the electors shall neglect or refuse to make such elections, after being duly notified according to law, the governor shall appoint suitable persons to fill such offices.

SEC. 3. The major-general shall be elected by the senate and house of representatives, each having a negative on the other. The adjutant-general and quartermaster-general shall be appointed by the governor and council; but the adjutant-general shall perform the duties of quartermaster-general until otherwise directed by law. The major-generals and brigadier-generals and the commanding officers of regiments and battalions shall appoint their respective staff-officers; and all military officers shall be commissioned by the governor.

SEC. 4. The militia, as divided into divisions, brigades, regiments, battalions, and companies, pursuant to the laws now in force, shall remain so organized until the same shall be altered by the legislature.

SEC. 5. Persons of the denomination of Quakers and Shakers, justices of the supreme judicial court, and ministers of the gospel, may be exempted from military duty; but no other person, of the age of eighteen and under the age of forty-five years, excepting officers of the militia who have been honorably discharged, shall be so exempted, unless he shall pay an equivalent, to be fixed by law.

ARTICLE VIII.

LITERATURE.

A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people, to promote this important object, the legislature are authorized, and it shall be their duty, to require the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools, and it shall further be their duty to encourage and suitably endow, from time to time, as the circumstances of the people may authorize, all academies, colleges, and seminaries of learning within the State: *Provided*, That no donation, grant, or endowment shall at any time be made by the legislature to any literary institution now established, or which may hereafter be established, unless, at the time of making such endowment, the legislature of the State shall have the right to grant any further powers to alter, limit, or restrain any of the powers vested in any such literary institution as shall be judged necessary to promote the best interests thereof.

ARTICLE IX.

GENERAL PROVISIONS.

SECTION 1. Every person elected or appointed to either of the places or offices provided in this constitution, and every person elected, appointed, or commissioned to any judicial, executive, military, or other office under this State, shall, before he enter on the discharge of the duties of his place or office, take and subscribe the following oath or affirmation: "I, ——— ———, do swear that I will support the Constitution of the United States and of this State, so long as I shall continue a citizen thereof: So help me God." "I, ———, do swear that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as ——— ———, according to the constitution and the laws of the State: So help me God." *Provided*, That an affirmation in the above forms may be substituted, when the persons shall be conscientiously scrupulous of taking and subscribing an oath.

The oaths or affirmations shall be taken and subscribed by the governor and councillors before the presiding officer of the senate, in the presence of both houses of the legislature, and by the senators and representatives before the governor and council, and by the residue of said officers before such person as shall be prescribed by the legislature; and whenever the governor or any councillor shall not be able to attend, during the session of the legislature, to take and subscribe said oaths or affirmations, such oaths or affirmations may be taken and subscribed, in the recess of the legislature, before any justice of the supreme judicial court: *Provided*, That the senators and representatives first elected under this constitution shall take and subscribe such oaths or affirmations before the president of the convention.

SEC. 2. No person holding the office of justice of the supreme judicial court or of any inferior court, attorney-general, county attorney, treasurer of the State, adjutant-general, judge of probate, register of probate, register of deeds, sheriffs or their deputies, clerks of the judicial courts, shall be a member of the legislature; and any person holding either of the foregoing offices, elected to and accepting a seat in the Congress of the United States, shall thereby vacate said office; and no person shall be capable of holding or exercising at the same time, within this State, more than one of the offices before mentioned.

SEC. 3. All commissions shall be in the name of the State, signed by the governor, attested by the secretary or his deputy, and have the seal of the State thereto affixed.

SEC. 4. And in case the elections required by this constitution on the first Wednesday of January, annually, by the two houses of the legislature, shall not be completed on that day, the same may be adjourned from day to day until completed, in the following order: The vacancies in the senate shall first be filled; the governor shall then be elected, if there be no choice by the people; and afterwards the two houses shall elect the council.

SEC. 5. Every person holding any civil office under this State may be removed, by impeachment, for misdemeanor in office; and every person holding any office may be removed by the governor, with the advice of the council, on the address of both branches of the legislature. But, before such address shall pass either house, the causes of removal shall be stated and entered on the journal of the house in which it originated, and a copy thereof served on the person in office, that he may be admitted to a hearing in his defence.

SEC. 6. The tenure of all offices, which are not or shall not be otherwise provided for, shall be during the pleasure of the governor and council.

SEC. 7. While the public expenses shall be assessed on polls and estates, a general valuation shall be taken at least once in ten years.

SEC. 8. All taxes upon real estate, assessed by authority of this State, shall be apportioned and assessed equally, according to the just value thereof.

ARTICLE X.

SCHEDULE.

SECTION 1. The first legislature shall meet on the last Wednesday in May next. The elections on the second Monday in September, annually, shall not commence until the year one thousand eight hundred and twenty-one, and, in the mean time, the election for governor, senators, and representatives shall be on the first Monday in April, in the year of our Lord one thousand eight hundred and twenty; and at this election the same proceedings shall be had as are required at the elections provided for in this constitution, on the second Monday in September, annually, and the lists of the votes for the governor and senators shall be transmitted by the town and plantation clerks, respectively, to the secretary of state *pro tempore*, seventeen days at least before the last Wednesday in May next; and the president of the convention shall, in presence of the secretary of state *pro tempore*, open and examine the attested copies of said lists, so returned for senators, and shall have all the powers and be subject to all the duties in ascertaining, notifying, and summoning the senators who appear to be elected, as the governor and council have, and are subject to, by this constitution: *Provided*, He shall notify said senators fourteen days at least before the

last Wednesday in May, and vacancies shall be ascertained and filled in the manner herein provided; and the senators to be elected on the said first Monday of April shall be apportioned as follows:

The county of York shall elect three; the county of Cumberland shall elect three; the county of Lincoln shall elect three; the county of Hancock shall elect two; the county of Washington shall elect one; the county of Kennebec shall elect three; the county of Oxford shall elect two; the county of Somerset shall elect two; the county of Penobscot shall elect one.

And the members of the house of representatives shall be elected, ascertained, and returned in the same manner as herein provided at elections on the second Monday of September; and the first house of representatives shall consist of the following number, to be elected as follows:

County of York.—The towns of York and Wells may each elect two representatives, and each of the remaining towns may elect one.

County of Cumberland.—The town of Portland may elect three representatives; North Yarmouth, two; Brunswick, two; Gorham, two; Freeport and Pownal, two; Raymond and Otisfield, one; Bridegton, Baldwin, and Harrison, one; Poland and Danville, one; and each remaining town, one.

County of Lincoln.—The towns of Georgetown and Phippsburgh may elect one representative; Lewiston and Wales, one; Saint George, Cushing, and Friendship, one; Hope and Appleton Ridge, one; Jefferson, Putnam, and Patricktown Plantation, one; Alba and Whitefield, one; Montville, Palermo, and Montville Plantation, one; Woolwich and Dresden, one; and each remaining town, one.

County of Hancock.—The town of Bucksport may elect one representative; Deer Island, one; Castine and Brooksville, one; Orland and Penobscot, one; Mount Desert and Eden, one; Vinalhaven and Isleborough, one; Sedgwick and Blue Hill, one; Gouldsborough, Sullivan, and Plantations Nos. 8 and 9, north of Sullivan, one; Surry, Ellsworth, Trenton, and Plantation of Mariaville, one; Lincolnville, Searsmont, and Belmont, one; Belfast and Northport, one; Prospect and Swanville, one; Frankfort and Monroe, one; Knox, Brooks, Jackson, and Thorndike, one.

County of Washington.—The towns of Steuben, Cherryfield, and Harrington may elect one representative; Addison, Columbia, and Jonesborough, one; Machias, one; Lubec, Dennysville, Plantations No. 9, No. 10, No. 11, No. 12, one; Eastport, one; Perry, Robinson, Calais, Plantations No. 3, No. 6, No. 7, No. 15, and No. 16, one.

County of Kennebec.—The towns of Belgrade and Dearborn may elect one representative; Chesterville, Vienna, and Rome, one; Wayne and Fayette, one; Temple and Wilton, one; Winslow and China, one; Fairfax and Freedom, one; Unity, Joy, and Twenty-five Mile Pond Plantation, one; Harlem and Malta, one; and each remaining town, one.

County of Oxford.—The towns of Dixfield, Mexico, Weld, and Plantations Nos. 1 and 4, may elect one representative; Jay and Hartford, one; Livermore, one; Rumford, East Andover, and Plantations Nos. 7 and 8, one; Turner, one; Woodstock, Paris, and Greenwood, one; Hebron and Norway, one; Gilead, Bethel, Newry, Albany, and Howard's Gore, one; Porter, Hiram, and Brownfield, one; Waterford, Sweden, and Lovell, one; Denmark, Fryeburgh, and Fryeburgh Addition, one; Buckfield and Sumner, one.

County of Somerset.—The town of Fairfield may elect one representative; Norridgwock and Bloomfield, one; Starks and Mercer, one; Industry, Strong, and New Vineyard, one; Avon, Phillips, Freeman, and Kingfield, one; Anson, New Portland, Embden, and Plantation No. 1, one; Canaan, Warsaw, Palmyra, Saint Albans, and Corinna, one; Madison, Solon, Bingham, Moscow, and Northhill, one; Cornville, Athens, Harmony, Ripley, and Warrenstown, one.

County of Penobscot.—The towns of Hampden and Newburgh may elect one representative; Orrington, Brewer, and Eddington, and plantations adjacent, on the east side of Penobscot River, one; Bangor, Orono, and Sunkhaze Plantation, one; Dixmont, Newport, Carmel, Hermon, Stetson, and Plantation No. 4, in the 6th range, one; Levant, Corinth, Exeter, New Charleston, Blakesburgh, Plantation No. 1, in 3d range, and Plantation No. 1, in 4th range, one; Dexter, Garland, Guilford, Sanger-

ville, and Plantation No. 3, in 6th range, one; Atkinson, Sebec, Foxcroft, Brownville, Williamsburgh, Plantation No. 1, in 7th range, and Plantation No. 3, in 7th range, one.

And the secretary of state *pro tempore* shall have the same powers and be subject to the same duties, in relation to the votes for governor, as the secretary of state has and is subject to by this constitution; and the election of governor shall, on the said last Wednesday in May, be determined and declared in the same manner as other elections of governor are by this constitution; and, in case of vacancy in said office, the president of the senate and the speaker of the house of representatives shall exercise the office as herein otherwise provided, and the councillors, secretary, and treasurer shall also be elected on the said day, and have the same powers, and be subject to the same duties, as is provided in this constitution; and in case of the death or other disqualification of the president of this convention, or of the secretary of state *pro tempore*, before the election and qualification of the governor or secretary of state under this constitution, the persons to be designated by this convention, at their session in January next, shall have all the powers and perform all the duties which the president of this convention, or the secretary *pro tempore*, to be by them appointed, shall have and perform.

SEC. 2. The period for which the governors, senators and representatives, councillors, secretary, and treasurer, first elected or appointed, are to serve in their respective offices and places shall commence on the last Wednesday in May, in the year of our Lord one thousand eight hundred and twenty, and continue until the first Wednesday of January, in the year of our Lord one thousand eight hundred and twenty-two.

SEC. 3. All laws now in force in this State, and not repugnant to this constitution, shall remain and be in force until altered or repealed by the legislature or shall expire by their own limitation.

SEC. 4. The legislature, whenever two-thirds of both houses shall deem it necessary, may propose amendments to this constitution; and when any amendment shall be so agreed upon, a resolution shall be passed and sent to the selectmen of the several towns and the assessors of the several plantations, empowering and directing them to notify the inhabitants of their respective towns and plantations, in the manner prescribed by law, at their next annual meetings in the month of September, to give in their votes on the question whether such amendment shall be made; and if it shall appear that a majority of the inhabitants voting on the question are in favor of such amendment, it shall become a part of this constitution.

SEC. 5. All officers provided for in the sixth section of an act of the commonwealth of Massachusetts, passed on the 19th day of June, in the year of our Lord one thousand eight hundred and nineteen, entitled "An act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent State," shall continue in office, as therein provided; and the following provisions of said act shall be a part of this constitution; subject, however, to be modified or annulled, as therein is prescribed, and not otherwise, to wit:

"SECTION 1. Whereas it has been represented to this legislature that a majority of the people of the District of Maine are desirous of establishing a separate and independent government within said District: Therefore,

"*Be it enacted by the senate and house of representatives in general court assembled, and by the authority of the same,* That the consent of this commonwealth be, and the same is hereby, given that the District of Maine may be formed and erected into a separate and independent State, if the people of the said District shall, in the manner and by the majority hereinafter mentioned, express their consent and agreement thereto, upon the following terms and conditions, and provided the Congress of the United States shall give its consent thereto before the fourth day of March next; which terms and conditions are as follows, viz:

"*First.* All the lands and buildings belonging to the commonwealth, within Massachusetts proper, shall continue to belong to said commonwealth; and all the lands belonging to the commonwealth within the District of Maine shall belong, the one-half thereof to the said commonwealth, and the other half thereof to the State to be formed within the said District, to be divided as is hereinafter mentioned; and the lands

within the said District which shall belong to the said commonwealth shall be free from taxation, while the title of said lands remains in the commonwealth; and the rights of the commonwealth to their lands within said District, and the remedies for the recovery thereof, shall continue the same within the proposed State, and in the courts thereof, as they now are within the said commonwealth, and in the courts thereof; for which purposes, and for the maintenance of its rights and recovery of its lands, the said commonwealth shall be entitled to all other proper and legal remedies, and may appear in the courts of the proposed State, and in the courts of the United States holden therein; and all rights of action for, or entry into lands, and of action upon bonds, for the breach of the performance of the condition of settling duties, so called, which have accrued, or may accrue, shall remain in this commonwealth, to be enforced, commuted, released, or otherwise disposed of, in such manner as this commonwealth may hereafter determine: *Provided, however,* That whatever this commonwealth may hereafter receive or obtain on account thereof, if anything, shall, after deducting all reasonable charges relating thereto, be divided, one third part thereof to the new State, and two third parts thereof to this commonwealth.

"*Second.* All the arms which have been received by this commonwealth from the United States, under the law of Congress entitled, 'An act making provision for arming and equipping the whole body of militia of the United States,' passed April the twenty-third, one thousand eight hundred and eight, shall, as soon as the said District shall become a separate State, be divided between the two States, in proportion to the returns of the militia, according to which the said arms have been received from the United States as aforesaid.

"*Third.* All money, stock, or other proceeds, hereafter derived from the United States, on account of the claim of this commonwealth for disbursements made and expenses incurred for the defence of the State during the late war with Great Britain, shall be received by this commonwealth; and, when received, shall be divided between the two States, in the proportion of two-thirds to this commonwealth and one-third to the new State.

"*Fourth.* All other property, of every description, belonging to the commonwealth, shall be holden and receivable by the same, as a fund and security for all debts, annuities, and Indian subsidies or claims, due by said commonwealth; and within two years after the said District shall have become a separate State, the commissioners to be appointed, as hereinafter provided, if the said States cannot otherwise agree, shall assign a just portion of the productive property so held by said commonwealth, as an equivalent and indemnification to said commonwealth for all such debts, annuities, or Indian subsidies, or claims, which may then remain due or unsatisfied; and all the surplus of the said property, so holden as aforesaid, shall be divided between the said commonwealth and the said District of Maine, in the proportion of two-thirds to the said commonwealth and one-third to the said District; and if in the judgment of the said commissioners the whole of said property, so held as a fund and security, shall not be sufficient indemnification for the purpose, the said District shall be liable for and shall pay to said commonwealth one-third of the deficiency.

"*Fifth.* The new State shall, as soon as the necessary arrangements can be made for that purpose, assume and perform all the duties and obligations of this commonwealth towards the Indians within said District of Maine, whether the same arise from treaties or otherwise; and for this purpose shall obtain the assent of said Indians, and their release to this commonwealth of claims and stipulations arising under the treaty at present existing between the said commonwealth and said Indians; and, as indemnification to such new State therefor, this commonwealth, when such arrangements shall be completed, and the said duties and obligations assumed, shall pay to said new State the value of thirty thousand dollars, in manner following, viz: The said commissioners shall set off, by metes and bounds, so much of any part of the land within the said District falling to this commonwealth, in the division of the public lands hereinafter provided for, as in their estimation shall be of the value of thirty thousand dollars; and this commonwealth shall, thereupon, assign the same to the said new State, or in lieu thereof may pay the sum of thirty thousand dollars, at its election; which election of the said commonwealth shall be made within one year from the time

that notice of the doings of the commissioners on this subject shall be made known to the governor and council, and if not made within that time, the election shall be with the new State.

"*Sixth.* Commissioners, with the powers and for the purposes mentioned in this act, shall be appointed in manner following: The executive authority of each State shall appoint two, and the four so appointed, or the major part of them, shall appoint two more; but, if they cannot agree in the appointment, the executive of each State shall appoint one in addition; not, however, in that case, to be a citizen of its own State. And any vacancy happening with respect to the commissioners shall be supplied in the manner provided for their original appointment; and, in addition to the powers hereinbefore given to said commissioners, they shall have full power and authority to divide all the public lands within the District between the respective States, in equal shares or moieties, in severalty, having regard to quantity, situation, and quality; they shall determine what lands shall be surveyed and divided, from time to time, the expenses of which surveys and of the commissioners shall be borne equally by the two States. They shall keep fair records of their doings, and of the surveys made by their direction, copies of which records, authenticated by them, shall be deposited, from time to time, in the archives of the respective States, transcripts of which, properly certified, may be admitted in evidence in all questions touching the subject to which they relate. The executive authority of each State may revoke the power of either or both its commissioners, having, however, first appointed a substitute or substitutes, and may fill any vacancy happening with respect to its own commissioners; four of said commissioners shall constitute a quorum for the transaction of business; their decision shall be final upon all subjects within their cognizance. In case said commission shall expire, the same not having been completed, and either State shall request the renewal or filling up of the same, it shall be renewed or filled up in the same manner as is herein provided for filling the same in the first instance, and with the like powers; and if either State shall, after six months' notice, neglect or refuse to appoint its commissioners, the other may fill up the whole commission.

"*Seventh.* All grants of lands, franchises, immunities, corporate or other rights, and all contracts for or grants of lands not yet located, which have been or may be made by the said commonwealth before the separation of said District shall take place, and having or to have effect within the said District, shall continue in full force after the said District shall become a separate State. But the grant which has been made to the president and trustees of Bowdoin College out of the tax laid upon the banks within this commonwealth shall be charged upon the tax upon the banks within the said District of Maine, and paid according to the terms of said grant; and the president and trustees and the overseers of said college shall have, hold, and enjoy their powers and privileges in all respects, so that the same shall not be subject to be altered, limited, annulled, or restrained, except by judicial process, according to the principles of law; and, in all grants hereafter to be made, by either State, of unlocated land within the said District, the same reservations shall be made for the benefit of schools and of the ministry as have heretofore been usual in grants made by this commonwealth. And all lands heretofore granted by this commonwealth to any religious, literary, or eleemosynary corporation or society shall be free from taxation while the same continues to be owned by such corporation or society.

"*Eighth.* No laws shall be passed in the proposed State with regard to taxes, actions, or remedies at law, or bars or limitations thereof, or otherwise making any distinction between the lands and rights of property of proprietors not resident in, or not citizens of, said proposed State, and the lands and rights of property of the citizens of the proposed State resident therein; and the rights and liabilities of all persons shall, after the said separation, continue the same as if the said District was still a part of this commonwealth, in all suits pending or judgments remaining unsatisfied on the fifteenth day of March next, where the suits have been commenced in Massachusetts proper and process has been served within the District of Maine, or commenced in the District of Maine and process has been served in Massachusetts proper, either by taking bail, making attachments, arresting and detaining persons, or otherwise, where execution remains to be done; and in such suits the courts within

Massachusetts proper, and within the proposed State, shall continue to have the same jurisdiction as if the said District had still remained a part of the commonwealth. And this commonwealth shall have the same remedies within the proposed State as it now has for the collection of all taxes, bonds, or debts which may be assessed, due, made, or contracted by, to, or with the commonwealth on or before the said fifteenth day of March, within the said District of Maine, and all officers within Massachusetts proper and the District of Maine shall conduct themselves accordingly.

"*Ninth.* These terms and conditions, as here set forth, when the said District shall become a separate and independent State, shall, *ipso facto*, be incorporated into and become and be a part of any constitution, provisional or other, under which the government of the said proposed State shall, at any time hereafter, be administered, subject, however, to be modified or annulled by the agreement of the legislature of both the said States, but by no other power or body whatsoever."

SEC. 6. This constitution shall be enrolled on parchment, deposited in the secretary's office, and be the supreme law of the State, and printed copies thereof shall be prefixed to the books containing the laws of this State.

Done in convention October 29, 1819.

WILLIAM KING, *President.*

ROBERT C. VOSE, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1820.*

RATIFIED 1834.

ARTICLE I. †The electors resident in any city may, at any meeting duly notified for the choice of representatives, vote for such representatives in their respective ward meetings, and the wardens in said wards shall preside impartially at such meetings, receive votes of all qualified electors present, sort, count, and declare them in open ward meetings, and in the presence of the ward clerk, who shall form a list of the persons voted for, with the number of votes for each person against his name; shall make a fair record thereof in the presence of the wardens, and in open ward meeting; and a fair copy of this list shall be attested by the warden and ward clerk, sealed up in open ward meeting, and delivered to the city clerk within twenty-four hours after the close of the polls. And the aldermen of any city shall be in session, at their usual place of meeting, within twenty-four hours after any election, and, in the presence of the city clerk, shall examine and compare the copies of said lists, and in case any person shall have received a majority of all the votes he shall be declared elected by the aldermen, and the city clerk of any city shall make a record thereof, and the aldermen and city clerk shall deliver certified copies of such lists to the person or persons so elected within ten days after the election. And the electors resident in any city may, at any meeting duly notified and holden for the choice of any other civil officers for whom they have been required heretofore to vote in town meeting, vote for such officers in their respective wards, and the same proceedings shall be had by the warden and ward clerk in each ward as in the case of votes for representatives. And the aldermen of any city shall be in session within twenty-four hours after the close of the polls in such meetings, and, in the presence of the city clerk, shall open, examine, and compare the copies from the lists of votes given in the several wards, of which the city clerk shall make a record, and a return thereof shall be made into the secretary of state's office, in the same manner as selectmen of towns are required to do.

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* Several of the earlier amendments have been amended by others ratified at later dates.
† See article twelve of amendments.

RATIFIED 1837.

ART. II. No person, before conviction, shall be bailable for any of the crimes which now are or have been denominated capital offences since the adoption of the constitution, when the proof is evident or the presumption great, whatever the punishment of the crime may be.

RATIFIED 1839.

ART. III. All judicial officers now in office, or who may be hereafter appointed, shall, from and after the first day of March, in the year 1840, hold their offices for the term of seven years from the time of their respective appointments, (unless sooner removed by impeachment or by address of both branches of the legislature to the executive,) and no longer, unless reappointed thereto.

RATIFIED 1841.

ART. IV. The second section, article fourth, part first, of the constitution is amended by substituting the words "one hundred and fifty-one" for "not less than one hundred nor more than two hundred," before the word "members" in said section, so as to establish the number of representatives for the State at the number of one hundred and fifty-one; and the latter part of said section, being the words and sentences following: "and, whenever the number of representatives shall be two hundred, at the next annual meetings of election which shall thereafter be had, and at every subsequent period of ten years, the people shall give in their votes, whether the number of representatives shall be increased or diminished, and if a majority of votes are in favor thereof, it shall be the duty of the next legislature thereafter to increase or diminish the number by the rule hereinafter prescribed," shall not be a part of the constitution; but one hundred and fifty-one representatives shall be apportioned according to the rule in this constitution.

RATIFIED 1845.

ART. V.* The annual meeting of the legislature shall be on the second Wednesday of May in each year; and the governor and other State officers elected for the political year commencing on the first Wednesday of January, in the year of our Lord one thousand eight hundred and forty-five, shall hold their offices till the second Wednesday of May, in the year of our Lord one thousand eight hundred and forty-six.

RATIFIED 1848.

ART. VI. The credit of the State shall not be directly or indirectly loaned in any case.

The legislature shall not create any debt or debts, liability or liabilities, on behalf of the State, which shall singly, or in the aggregate, with previous debts and liabilities hereafter incurred at any one time, exceed three hundred thousand dollars, except to suppress insurrection, to repel invasion, or for purposes of war; but this amendment shall not be construed to refer to any money that has been or may be deposited with this State by the Government of the United States, or to any fund which the State shall hold in trust for any Indian tribe.

ART. VII. The constitution of this State is amended in the fifth section of the first part of the fourth article, by striking out the words "a majority of all the," and inserting instead thereof the words "the highest number of," and by striking out the words "a majority," where they again occur in the same section, and inserting instead thereof the words "the highest number;" also in the first amendment to the constitution of this State, by striking out the words "a majority of all the," and inserting instead thereof the words "the highest number of."

RATIFIED 1851.

ART. VIII. The annual meeting of the legislature shall be on the first Wednesday of January in each year; and the governor and other State officers elected for the political year commencing on the second Wednesday of May, in the year of our

* Annulled. See eighth amendment.

Lord one thousand eight hundred and fifty-one, shall hold their offices till the first Wednesday of January, in the year of our Lord one thousand eight hundred and fifty-two.

RATIFIED 1856.

ART. IX. The constitution of this State is amended as follows: In the sixth article it is amended by adding the following sections at the end of said article:

"SEC. 7. Judges and registers of probate shall be elected by the people of their respective counties, by a plurality of the votes given in at the annual election, on the second Monday of September, shall hold their offices for four years, commencing on the first day of January next after their election. Vacancies occurring in said offices, by death, resignation, or otherwise, shall be filled by election in manner aforesaid, at the September election next after their occurrence; and in the mean time the governor, with the advice and consent of the council, may fill said vacancies by appointment, and the persons so appointed shall hold their offices until the first day of January thereafter.

"SEC. 8. Judges of municipal and police courts shall be elected by the people of their respective cities and towns, by a plurality of the votes given in at the annual meeting in March or April, and shall hold their offices for four years from the Monday following the day of their election. Vacancies in said office shall be filled by election at the next annual meeting in March or April; and in the mean time the governor, with the advice and consent of the council, may fill vacancies by appointment, until the Monday following said annual meeting."*

ART. X. In the third section of the seventh article, it is amended so that said section shall read:

"SEC. 3. The major-generals shall be elected by the senate and house of representatives, each having a negative on the other. The adjutant-general and the quartermaster-general shall be chosen annually by a joint ballot of the senators and representatives in convention. But the adjutant-general shall perform the duties of quartermaster-general until otherwise directed by law. The major-generals and brigadier-generals, and the commanding officers of regiments and battalions, shall appoint their respective staff-officers; and all military officers shall be commissioned by the governor."

ART. XI. The ninth article is amended by inserting at the end thereof the following sections:

"SEC. 9. Sheriffs shall be elected by the people of their respective counties, by a plurality of the votes given in on the second Monday of September, and shall hold their offices for two years from the first day of January next after their election. Vacancies shall be filled in the same manner as is provided in the case of judges and registers of probate.

"SEC. 10. The land-agent and attorney-general shall be chosen annually by joint ballot of the senators and representatives in convention. Vacancies in said offices, occurring when the legislature is not in session, may be filled by appointment by the governor, with the advice and consent of the council."

RATIFIED 1865.

ART. XII. Section one of article two shall be amended by adding thereto the following words:

"No person, however, shall be deemed to have lost his residence by reason of his absence from the State in the military service of the United States, or of this State."

Section four of article two shall be amended by adding thereto the following provisions:

"But citizens of the State absent therefrom in the military service of the United States, or of this State, and not in the Regular Army of the United States, being otherwise qualified electors, shall be allowed to vote on Tuesday next after the first Monday of November, in the year of our Lord one thousand eight hundred and sixty-four, for governor and senators, and their votes shall be counted and allowed in

* See article twelve of amendments.

the same manner and with the same effect as if given on the second Monday of September in that year. And they shall be allowed to vote for governor, senators, and representatives on the second Monday of September annually thereafter forever, in the manner herein provided. On the day of election a poll shall be opened at every place without this State where a regiment, battalion, battery, company, or detachment of not less than twenty soldiers from the State of Maine may be found or stationed, and every citizen of said State of the age of twenty-one years, in such military service, shall be entitled to vote as aforesaid; and he shall be considered as voting in the city, town, plantation, and county in this State where he resided when he entered the service. The vote shall be taken by regiments when it can conveniently be done; when not so convenient, any detachment or part of a regiment, not less than twenty in number, and any battery or part thereof numbering twenty or more, shall be entitled to vote wherever they may be. The three ranking officers of such regiment, battalion, battery, company, or part of either, as the case may be, acting as such on the day of election, shall be supervisors of elections. If no officers, then three non-commissioned officers, according to their seniority, shall be such supervisors. If any officer or non-commissioned officer shall neglect or refuse to act, the next in rank shall take his place. In case there are no officers or non-commissioned officers present, or if they or either of them refuse to act, the electors present, not less than twenty, may choose, by written ballot, enough of their own number, not exceeding three, to fill the vacancies, and the persons so chosen shall be supervisors of elections. All supervisors shall be first sworn to support the Constitution of the United States and of this State, and faithfully and impartially to perform the duties of supervisors of elections. Each is authorized to administer the necessary oath to the others; and certificates thereof shall be annexed to the list of votes by them to be made and returned into the office of the secretary of state of this State as hereinafter provided. The polls shall be opened and closed at such hours as the supervisors, or a majority of them, shall direct: *Provided, however*, That due notice and sufficient time shall be given for all voters in the regiment, battalion, battery, detachment, company, or part of either, as the case may be, to vote. Regimental and field officers shall be entitled to vote with their respective commands. When not in actual command, such officers, and also all general and staff officers, and all surgeons, assistant surgeons, and chaplains, shall be entitled to vote at any place where polls are opened. The supervisors of elections shall prepare a ballot-box or other suitable receptacle for the ballots. Upon one side of every ballot shall be printed or written the name of the county, and also of the city, town, or plantation in this State in which is the residence of the person proposing to vote. Upon the other side shall be the name or names of the persons to be voted for, and the office or offices which he or they are intended to fill. And before receiving any vote, the supervisors, or a majority of them, must be satisfied of the age and citizenship of the person claiming to vote, and that he has in fact a residence in the county, city, town, or plantation which is printed or written on the vote offered by him. If his right to vote is challenged, they may require him to make true answers, upon oath, to all interrogatories touching his age, citizenship, residence, and right to vote, and shall hear any other evidence offered by him, or by those who challenge his right. They shall keep correct poll-lists of the names of all persons allowed to vote, and of their respective places of residence in this State, and also the number of the regiment and company or battery to which they belong; which lists shall be certified by them, or by a majority of them, to be correct, and that such residence is in accordance with the indorsement of the residence of each voter on his vote. They shall check the name of every person before he is allowed to vote, and the check-mark shall be plainly made against his name on the poll-lists. They shall sort, count, and publicly declare the votes at the head of their respective commands on the day of election, unless prevented by the public enemy, and in that case as soon thereafter as may be; and on the same day of said declaration they shall form a list of the persons voted for, with the number of votes for each person against his name, and the office which he was intended to fill, and shall sign and seal up such list, and cause the same, together with the poll-lists aforesaid, to be delivered into the office of the

secretary of state aforesaid, on or before the first day of December, in the year one thousand eight hundred and sixty-four, and on or before the fifteenth day of November annually thereafter forever. The legislature of this State may pass any law additional to the foregoing provisions, if any shall, in practice, be found necessary in order more fully to carry into effect the purpose thereof."

Section five of article four, part first, shall be amended by inserting after the word "meetings," in the first line, the words, "within this State." The same section shall also be amended by striking out all after the words "town meeting," in the tenth line, as printed in the revised statutes of eighteen hundred and fifty-seven, to and including the word "election," in the thirteenth line. The same section shall also be amended by striking out all after the word "constitution," in the twenty-first line, and inserting in the place thereof the following provisions: "And fair copies of the lists of votes shall be attested by the selectmen and town clerks of towns, and the assessors of plantations, and sealed up in open town and plantation meetings; and the town and plantation clerks respectively shall cause the same to be delivered into the secretary's office thirty days at least before the first Wednesday of January annually. And the governor and council shall examine the returned copies of such lists, and also all lists of votes of citizens in the military service, returned to the secretary's office, as provided in the amendment to article second, section four, of this constitution; and twenty days before the said first Wednesday of January, annually, shall issue a summons to such persons as shall appear to be elected by a plurality of all the votes returned, to attend and take their seats. But all such lists shall be laid before the house of representatives on the first Wednesday of January, annually, and they shall finally determine who are elected."

Section three of article four, part second, shall be amended by inserting after the word "meetings," in the first line, the words "within this State."

Section four of article four, part second, shall be amended by adding after the word "lists," in the second line, the words "and also the lists of votes of citizens in the military service, returned into the secretary's office." The same section shall also be amended in the last line, by striking out the word "in," and inserting in place thereof the word "for."

Section three of article five, part first, shall be amended by adding after the words "senate and house of representatives" the words "and also the lists of votes of citizens in the military service, returned into the secretary's office."

Article first of the amendments to the constitution of this State, heretofore adopted, shall be amended by striking out all after the word "polls," in the thirteenth line, to and including the word "election," in the twenty-first line.

Article ninth of said amendments shall be amended by adding at the end thereof the following provisions:

"SEC. 11. But citizens of this State absent therefrom in the military service of the United States or of this State, and not in the Regular Army of the United States, being otherwise qualified electors, shall be allowed to vote for judges and registers of probate, sheriffs, and all other county officers, on the Tuesday next after the first Monday of November, in the year one thousand eight hundred and sixty-four, and their votes shall be counted and allowed in the same manner and with the same effect as if given on the second Monday of September in that year. And they shall be allowed to vote for all such officers on the second Monday in September annually thereafter forever. And the votes shall be given at the same time and in the same manner, and the names of the several candidates shall be printed or written on the same ballots with those for governor, senators, and representatives, as provided in the amendment to section four of article second of this constitution."

RATIFIED 1868.

ART. XIII. The State is authorized to issue bonds, payable within twenty-one years, at a rate of interest not exceeding 6 per cent. a year, payable semi-annually, which bonds or their proceeds shall be devoted solely towards the reimbursement of the expenditures incurred by the cities, towns, and plantations of the State for war purposes during the rebellion, upon the following basis: Each city, town, and plantation shall

receive from the State one hundred dollars for every man furnished for the military service of the United States under and after the call of July second, eighteen hundred and sixty-two, and accepted by the United States towards its quota for the term of three years, and in the same proportion for every man so furnished and accepted for any shorter period; and the same shall be in full payment for any claim upon the State on account of its war debts by any such municipality. A commission appointed by the governor and council shall determine the amount to which each city, town, and plantation is entitled, to be devoted to such reimbursement; the surplus, if any, to be appropriated to the soldiers who enlisted or were drafted and went at any time during the war, or, if deceased, to their legal representatives. The issue of bonds hereby authorized shall not exceed in the aggregate three million five hundred thousand dollars, and this amendment shall not be construed to permit the credit of the State to be directly or indirectly loaned in any other case or for any other purpose.

RATIFIED 1869.

ART. XIV. The legislature may, by law, authorize the dividing of towns having not less than four thousand inhabitants, or having voters residing on any island within the limits thereof, into voting-districts for the election of representatives to the legislature, and prescribe the manner in which the votes shall be received, counted, and the result of the election declared.

RATIFIED 1876.

ART. IV, PART 3. SEC. 12. The legislature shall, from time to time, provide, as far as practicable, by general laws, for all matters usually appertaining to special or private legislation.

SEC. 14. Corporations shall be formed under general laws, and shall not be created by special acts of the legislature, except for municipal purposes, and in cases where the objects of the corporation cannot otherwise be attained; and, however formed, they shall forever be subject to the general laws of the State.

ART V, PART 1. SEC. 11. Amended by striking out of said section all after the word "reprieves," and by adding thereto the following: Commutations and pardons, except in cases of impeachment, upon such conditions, and with such restrictions and limitations as may be deemed proper, subject to such regulations as may be provided by law, relative to the manner of applying for pardons. And he shall communicate to the legislature, at each session thereof, each case of reprieve, remission of penalty, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of the reprieve, remission, commutation, or pardon, and the conditions, if any, upon which the same was granted.

ART. VI. SEC. 8. Judges of municipal and police courts shall be appointed by the executive power, in the same manner as other judicial officers, and shall hold their offices for the term of four years: *Provided, however*, That the present incumbents shall hold their offices for the term for which they were elected.

ART. IX. SEC. 8. All taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally, according to the just value thereof.

SEC. 9. The legislature shall never, in any manner, suspend or surrender the power of taxation.

ART. IX. SEC. 10, of the amendments. Amended, by striking out the words "land agent and."

ART. IV, PART 3. SEC. 9. The legislature shall, by a two-thirds concurrent vote of both branches, have the power to call constitutional conventions, for the purpose of amending this constitution. The legislature may enact laws excluding from the right of suffrage, for a term not exceeding ten years, all persons convicted of bribery at any election, or of voting at any election, under the influence of a bribe.

ART. X. SEC. 6. After the amendments proposed herewith shall have been sub-

mitted to popular vote, the chief justice of the supreme judicial court shall arrange the constitution, as amended, under appropriate titles, and in proper articles, parts and sections, omitting all sections, clauses, and words not in force, and making no other changes in the provisions or language thereof, and shall submit the same to the legislature at its next session. And the draft, and arrangement, when approved by the legislature, shall be enrolled on parchment and deposited in the office of the secretary of state; and printed copies thereof shall be prefixed to the books containing the laws of the State. And the constitution, with the amendments made thereto, in accordance with the provisions thereof, shall be the supreme law of the State.

SEC. 7. Sections one, two, and five, of article ten of the existing constitution, shall hereafter be omitted in any printed copies thereof prefixed to the laws of the State; but this shall not impair the validity of acts under those sections; and said section five shall remain in full force, as part of the constitution, according to the stipulations of said section, with the same effect as if contained in said printed copies.

CESSION OF MAINE BY MASSACHUSETTS—1820.

An Act in addition to an act entitled "An act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent State."

Be it enacted by the senate and house of representatives of Massachusetts in general court assembled, and by the authority of the same, That the consent of the legislature of this commonwealth be, and the same is hereby, given, that the District of Maine may be formed and erected into a separate and independent State, upon the terms and conditions, and in conformity to the enactments contained in an act entitled "An act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent State," whenever the Congress of the United States shall give its consent thereto, anything in the said act limiting the time when such consent should be given to the contrary notwithstanding: *Provided, however,* That if the Congress of the United States shall not have given its consent, as aforesaid, before the fifteenth day of March next, then all parts of the act, to which this is an addition, and all matters therein contained, which by said act have date or operation from or relation to the fifteenth day of March next, shall have date and operation from and relation to the day on which the Congress of the United States shall give its consent, as aforesaid: *Provided, also,* That if the Congress of the United States shall not give its consent, as aforesaid, within two years from the fourth day of March next, this present act shall be void and of no effect.

SEC. 2. *Be it further enacted,* That if it shall not be known on the first Monday of April next that the Congress of the United States has given its consent, as aforesaid, the people of the said District of Maine shall elect, provisionally, a governor, senators and representatives, or other officers necessary to the organization of the government thereof as a separate and independent State, according to the provisions of the constitution of government agreed to by the people of the said District. And the persons so elected shall assemble at the time and place designated by the said constitution, if the consent of Congress, as aforesaid, shall be given during the present session thereof, but not otherwise; and when assembled, as aforesaid, and having first determined on the returns and qualifications of the persons elected, they shall have the power as delegates of the people for that purpose, to declare, on behalf and in the name of the people, the said elections of such persons to be constitutional and valid, for the respective offices and stations for which they shall have been elected, as aforesaid. And if such declaration shall not be made before the persons so elected shall proceed to transact business as the legislature of said State, the said election shall be wholly void, unless it shall appear that the consent of Congress, aforesaid, shall have been given on or before the said first Monday of April next. And if the consent of Con-

gress, as aforesaid, shall be given after the said first Monday of April next, and the persons so elected, when assembled, as aforesaid, shall not declare the said election valid and constitutional, as aforesaid, within ten days from the last Wednesday of May next, then they shall cease to have any power to act in any capacity for the people of the said District, by virtue of their elections, as aforesaid; and the people shall again choose delegates to meet in convention, in the manner, for the purposes, and with the powers set forth in the third and fourth sections of the act to which this is in addition; the said elections of such delegates to be made on the first Monday of July next, and the delegates to meet in convention at Portland on the first Monday of September next.

[Approved by the governor, February 25, 1820.

ACT ADMITTING MAINE INTO THE UNION.

[Sixteenth Congress, First Session.]

Whereas by an act of the State of Massachusetts, passed on the nineteenth day of June, in the year one thousand eight hundred and nineteen, entitled "An act relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent State," the people of that part of Massachusetts heretofore known as the District of Maine did, with the consent of the legislature of the said State of Massachusetts, form themselves into an independent State, and did establish a constitution for the government of the same, agreeably to the provisions of the said act: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the fifteenth day of March, one thousand eight hundred and twenty, the State of Maine is hereby declared to be one of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

Approved, March 3, 1820.

MARYLAND.

THE CHARTER OF MARYLAND—1632.*

CAROLUS Dei Gratia *Angliæ Scotiæ Franciæ* et *Hiberniæ* Rex Fidei Defensor &c Omnibus ad quos præsentes litteræ nostræ pervenerint *Salutem* Cum perdilectus et perquam fidelis subditus noster CÆCILIUS CALVERT, Baro de *Baltimore* in Regno nostro *Hiberniæ* Filius et Hæres GEORGII CALVERT Militis, nuper Baronis de *Baltimore* in eodem Regno *Hiberniæ* Patris inherens vestigiis laudabili quodam et pio Christianam Religionem pariter et imperii nostri territoria dilatandi studio flagrans licentiam nobis ut copiosam Anglicanæ Gentis Coloniam Industria ac Impensa sua ad certam quandam Regionem inferius describendam in Terra quadam in Partibus Americæ hactenus inculta et Barbaris nullam divini numinis notitiam habentibus in Partibus occupata deducere possit totamq; illam Regionem cum certis quibusdam Privilegiis et jurisdictionibus ad Coloniæ suæ et Regionis prædictæ salubre Regimen et Statum pertinentibus a regia nostra Celsitudine sibi et Hæredibus suis dari concedi et confirmari humiliter supplicaverit Sciatis igitur quod nos pium et nobile præfatorum Baronum de Baltimore Propositum et Studium Regio Favore prosequentes ex Gratia speciali certa Scientia et mero Motu nostris *dedimus concessimus* et *confirmavimus* et per hanc præsentem Chartam nostram pro nobis Hæredibus et Successoribus nostris præfato *Cæcilio* modo Baroni de Baltimore Heredibus et Assignatis suis Damus, Concedimus et Confirmamus totam illam Partem Peninsulæ sive Chersonesi jacentis in Partibus *Americæ* inter Oceanum ex Oriente et sinum de *Chesopeake* ab Occidente a Residuo ejusdem per rectam Lineam a Promontorio sive Capite Terræ vocato *Watkin's Point* juxta Sinum prædictum prope Fluvium de *Wighco* scituato ab Occidente usque ad magnum Oceanum in Plaga Orientali ductam divisam Et inter Metam illam a Meridie usque ad Partem illam Estuarii de *Delaware* ab Aquilone quæ subjacet quadragesimo Gradui Latitudinis Septentrionalis ab Æquinoctiali ubi terminatur *Nova Anglia* totumque illius Terræ Tractum infra Metas subscriptas (videlicet) Transeundo a dicto Æstuario vocato *Delaware-Bay* recta Linea per Gradum prædictum usque ad verum Meridianum primi Fontis Fluminis de *Pattowmack* deinde vergendo versus Meridiem ad ulteriorem dicti Fluminis Ripam et eam sequendo qua Plaga occidentalis ad Meridionalem spectat usque ad Locum quendam appellatum *Cinquack* prope ejusdem Fluminis Ostium scituatum ubi in præfatum Sinum de *Chessopeake* evolvitur ac inde per Lineam brevissimam usque ad prædictum Promontorium sive Locum vocatum *Watkins' Point* Ita quod totus Terræ Tractus per Lineam prædictam inter magnum Oceanum et *Watkin's Point* divisus usque ad Promontorium vocatum *Cape Charles* et singula sua Appenditia Nobis Hæredibus et Successoribus nostris integre remaneant excepta Imperpetuum Nec non omnes Insulas et Insululas infra limites prædictos concedimus etiam et confirmamus eidem Baroni de *Baltimore* Hæredibus et Assignatis suis omnes et singulas Insulas et Insululas ab Orientali prædictæ Regionis Littore Orientem versus in Mari natas vel nascendas infra

* Sir George Calvert, visiting Virginia as one of the royal commissioners to whom the government of that colony was intrusted under the second charter of 1609, explored the upper portions of Chesapeake Bay, and on his return petitioned Charles II to grant him lands for the establishment of a colony there. He died before the charter granted him was executed, and it was issued to his son, Cæcilius Calvert, Lord Baltimore. It remained in force until the Revolution of 1776.

decem Leucas marinas ab eodem Littore scituatas cum omnibus et singulis Portubus Navium Stationibus Æstuariis Fluminibus et Fretus ad Regionem vel Insulas prædictas pertinentibus Omnesque Fundos Terræ Campestria Sylvas Montana Paludes Lacus Flumina Æstuaria et Freta infra Metas Terminos et Limites prædictos scituata seu existentia, cum cujuscunque Generis Piscium tam Balænarum Sturgeonum et aliorum Regalium quam aliorum in Mari Sinubus Fretis vel Fluminibus infra Premissa Piscationibus et Piscibus ibidem captis Omnesque insuper Auri Argenti Gemmarum et Lapidum pretiosorum et alias quascunque sive Lapidum sive Metallorum sive alterius cujuscunque Rei aut Materiæ Venas Mineras et Fodinas tam apertas quam occultas infra Regionem Insulas seu Limites prædictos repertas et reperiendas. Et hoc amplius omnium ecclefiarum quas (crescente CHRISTI Cultu et Religione) infra dictam Regionem Insulas Insululas et Limites prædictos futuris Temporibus ædificari contigerit Patronatus et Advocationes una cum Licencia et Facultate Ecclesias Capellas et Oratoria in Locis infra Præmissa congruis et idoneis extruendi et fundandi eaque dedicari et sacrari juxta Leges ecclesiasticas Regni nostri *Angliæ* faciendi Cum omnibus et singulis hujusmodi ac adeo amplis Juribus Jurisdictionibus Privilegiis Prærogativis Regalitatibus Libertatibus Immunitatibus Juribusque regalibus et Franchesiis quibuscumque temporalibus tam per mare quam per Terram infra Regionem Insulas Insululas et Limites prædictos habendis exercendis utendis et gaudendis prout aliquis Episcopus *Dunelmensis* infra Episcopatum sive Comitatum Palatinum *Dunelmensem* in Regno nostro *Angliæ* unquam antehac habuit tenuit usus vel gavisus fuit seu de jure habere te nere uti vel gaudere debuit aut potuit Ipsumque modò Baronem de *Baltimore* et Hæredes suos Regionis prædictæ cæterorumque omnium Præmissorum veros et absolutos Dominos et Proprietarios (exceptis præ exceptis) salva semper Fide et Ligeancia ac Dominio directo nobis Hæredibus et Successoribus nostris debitis pro nobis Hæredibus et Successoribus nostris facimus creamus et constituimus per Præsentes *habendum tenendum possidendum* et *gaudendum* prædictam Regionem Insulas Iusululas et cætera Præmissa præfato modo Baroni de Baltimore et Hæredibus et Assignatis suis ad solum et proprium Opus et Usum ipsius modò Baronis de *Baltimore* Hæredum et Assignatorum suorum imperpetuum tenendum de nobis Hæredibus et Successoribus nostris Regibus *Angliæ* ut de Castro nostro de *Windsor* in Comitatu nostro *Berkeiæ* in libero et communi Soccagio per Fidelitatem tantum pro omnibus Servitiis et non in Capite nec per Servitium militare reddendo inde nobis Hæredibus et Successoribus nostris duas Sagittas Indicas Partium illarum apud dictum Castrum de *Windsor* Singulis Annis tradendas in Die Martis in Septimana Paschæ Ac etiam quintam Partem omnis Metalli Aurei et Argentei Anglicè *of Gold and Silver Ore* quod infra prædictos Limites de Tempore in Tempus contigerit inveniri Ut vero prædicta Regio sic a nobis concessa et descripta cæteris omnibus illius Terræ Regionibus præfulgeat et amplioribus Titulis decoretur sciatis quod nos de ampliori Gratia nostra certa scientia et mero Motu nostris dictam Regionem ac Insulas in Provinciam erigendas esse duximus prout eas ex Plenitudine Potestatis et Prærogativæ nostræ regiæ pro nobis Hæredibus et Successoribus nostris in Provinciam erigimus et incorporamus eamque TERRAM MARIÆ *Anglice* MARYLAND nominamus et sic in futuro nominari volumus Et quoniam præfatum modò Baronem de *Baltimore* totius Provinciæ antedictæ verum dominum et Proprietarium superius fecimus et ordinavimus Ulterius igitur sciatis quod Nos pro Nobis Hæredibus et Successoribus nostris eidem modo Baroni (de cujus Fide Prudentia Justicia et provida Animi circumspectione plurimum confidimus) et Hæredibus suis pro bono et fælici dictæ Provinciæ Regimine Leges quascunque sive ad Publicum ejusdem Provinciæ Statum sive ad privatam singulorum Utilitatem pertinentes juxta sanas Discretiones suas de et cum concilio Assensu et Approbatione Liberorum Hominum ejusdem Provinciæ vel majoris Partis eorundem vel eorum Legatorum vel Deputatorum quos ad Leges condendas quum et quoties Opus fuerit a præfato modò Barone de *Baltimore* ac Hæredibus suis ac in Forma quæ illi vel illis melior esse videbitur convocari volumus condendi faciendi edendi et sub Sigillo prædicti modò Baronis de *Baltimore* ac Hæredum suorum promulgandi easque in omnes Homines infra dictam Provinciam et Limites ejusdem pro Tempore existentes vel sub illius vel illorum Regimine et Potestate *Terram Mariæ* versus navigantes aut inde redeuntes extra vel ad Ter-

ram Angliæ vel extra vel ad aliqua alia Dominia nostra vel aliena ubilibet constituta per mulctarum Impositionem Incarcerationem et aliam quamlibet Coercionem etiam si opporteat et Delicti Qualitas id exigerit per Membri vel Vitæ Privationem per se præfatum modò Baronem de *Baltimore* et Hæredes suos seu per Deputatum Locum-tenentem Judices Justiciarios Magistratos Officiarios et Ministros suos secundum Tenorem ac veram Intentionem Præsentium constituendos et conficiendos debitè exequendi Judicesque et Justiciarios Magistratos et Officiarios quoscunque ad quascunque Causas et cum quacunque Potestate et in Forma quæ præfato modò Baroni de *Baltimore* vel Hæredibus suis melior esse videbitur Terrâ illâ ac Partium illarum Mari constituendi et ordinandi Crimina item et Excessus quoscunque contra hujusmodi Leges sive ante judicium acceptum sive post remittendi relaxandi et pardonandi et abolendi cæteraque omnia alia et singula ad Justitiæ Complementum Curiasque Prætoria et Tribunalia Judiciorum Formas et Procedendi modos pertinentia etiam si de illis expressa in Præsentibus non fiat mentio ac in Curiis Prætoriis et Tribunalibus illis in Actionibus Sectis Causis et Negotiis quibuscunque tam Criminalibus quam Personalibus Realibus et Mixtis ac Prætoriis procedendi Placita tenendi et terminandi per Judices per ipsos Delegatos liberam plenam et omnimodam Tenore præsentium concedimus Potestatem Quas quidem Leges sic ut præmittitur promulgandas absolutissima Juris Firmitate niti et ab omnibus Hominibus Subditis et Ligeis nostris Hæredum et Successorum nostrorum quatenus eos concernunt in Partibus illis custodiri et sub Pœnis in eisdem expressis et exprimendis inviolabiliter observari volumus injungimus præcipimus et mandamus Ita tamen quod Leges prædictæ sint Rationi consonæ et non sint repugnantes nec contrariæ sed (quoad convenienter fieri poterit) consentaneæ Legibus Statutis Consuetudinibus ac Juribus hujus Regni nostri *Angliæ* Et quoniam in tantæ Provinciæ Regimine repentini Casus sæpenumero contingant quibus necesse erit Remedium adhiberi antequam Liberi tenentes dictæ Provinciæ Legati vel Deputati sui ad Leges condendas convocari possint nec idoneum erit continuò tali Casu emergente tantum Populum convocari Idcirco pro meliori Gubernatione tantæ Provinciæ volumus et ordinamus ac per Præsentes pro Nobis Hæredibus et Successoribus nostris præfato modò Baroni de *Baltimore* et Hæredibus suis concedimus quod præfatus modò Baro de *Baltimore* et Hæredes sui per se vel per Magistratus et Officiarios in ea Parte debitè ut præfertur constituendos ordinationes idoneas et salubres de Tempore in Tempus facere et constituere possint et valeant infra Provinciam prædictam custodiendas et observandas tam pro Custodia Pacis quam pro meliori Regimine Populi ibidem degentis easque omnibus quos eædem aliqualiter tangunt seu tangere possint publicè innotescere Quas quidem Ordinationes infra dictam Provinciam inviolabiliter observari volumus sub Pœnis in eisdem exprimendis It a quod eædem Ordinationes sint Rationi consonæ et non sint repugnantes nec cotrariæ sed (quoad convenienter fieri potest) consentaneæ Legibus Statutis aut Juribus Regni nostri *Angliæ* Et ita quod eædem Ordinationes se non extendant ad Jus vel interesse alicujus Personæ sive aliquarum Personarum de aut in Membro Vita libero Tenemento Bonis seu Catallis aliqualiter astringendum ligandum onerandum seu tollendum Porro ut Nova Colonia Populi eâdem confluentis Multitudine fœlicius crescat pariter et à Barbarorum aliorumve Hostium Piratorum et Prædonum Incursibus firmius muniatur Idcirco Nos pro Nobis Hæredibus et Successoribus nostris omnibus Hominibus et Subditis nostris Hæredum et Successorum nostrorum Ligeis præsentibus et futuris nisi quibus id specialiter fuerit interdictum Se Familiasque suas ad dictam Provinciam cum idoneis Navigiis et Commeatu congruo transferendi Sedesque suas ibidem collocandi incolendi et inhabitandi Castraque et Castella seu alia Fortalitia ad præfati modò Baronis de *Baltimore* et Hæredum suorum Arbitrium pro Defensione publica et sua extruendi et muniendi Facultatem Licentiam et Libertatem damus et concedimus per Præsentes Statuto de Fugitivis vel aliis quibuscunque in contrarium præmissorum in aliquo non obstantibus Volumus etiam et ex uberiori Gratia nostra pro Nobis Hæredibus et Successoribus nostris firmiter præcipimus constituimus ordinamus et mandamus quod dicta provincia de nostra ligeancia sit quodque omnes et singuli subditi ac Ligei nostri Hæredum et Successorum nostrorum in præfatam provinciam deducti vel deducendi ipsorum et aliorum de ipsis deducentium Liberi ibidem seu jam nati seu imposterum nascendi sint et erunt Indigenæ et Ligei nostri Hæredum et Successorum

nostrorum Regni nostri *Angliæ* et *Hiberniæ* Ac in omnibus teneantur tractentur reputentur et habeantur tanquam fideles Ligei nostri ac Hæredum et Successorum nostrorum infra Regnum nostrum *Angliæ* oriundi Nec non Terras Tenementa Reventiones Servitia et alia Hereditamenta quæcunque infra Regnum nostrum *Angliæ* ac alia Dominia nostra hæreditare seu aliter perquirere recipere capere habere tenere emere et possidere ac eis uti et gaudere eaque dare vendere alienare et legare Ac etiam omnia Privilegia Franchesias et Libertates hujus Regni nostri *Angliæ* libere quiete et pacifice habere et possidere eisque uti et gaudere possint tanquam Ligei nostri infra dictum Regnum nostrum *Angliæ* nati seu oriundi absque Impedimento Molestatione Vexatione Impetitione sive Gravamine nostri Hæredum vel Successorum nostrorum quorumcunque aliquo Statuto Actu Ordinatione seu Provisione in contrarium inde non obstante Præterea ut Subditi nostri ad Expeditionem hanc prompto et alacri animo suscipiendam incitentur sciatis quod Nos de Gratia nostra speciali ex certa Scientia et mero motu nostris tam præfato modò Baroni de *Baltimore* et Hæredibus suis quam aliis omnibus de Tempore in Tempus habitandi vel cum Incolis Provinciæ prædictæ commercium habendi Causa in Provinciam illam profecturis omnia et singula sua Bona tam mobilia quam immobilia Merces et Mercimonia Annonam etiam Generis cujuscunque aliaque ad Victum et Vestitum necessaria quæcunque per Leges et Statuta Regnorum et Dominiorum nostrorum extra eadem Regna deportari non prohibita in quibuscunque Portubus nostris Hæredum et Successorum nostrorum in Naves imponendi et onerandi et in dictam Provinciam per se vel Servos aut Assignatos suos traducendi absque Impedimento vel Molestatione nostri Hæredum vel Successorum nostrorum vel aliquorum Officiariorum nostrorum Hæredum et Successorum nostrorum (salvis nobis Hæredibus et Successoribus nostris Impositionibus Subsidiis Custumis et aliis pro eisdem Rebus et Merchandisis debitis et solubilibus) plenam Tenore Præsentium Licentiam damus et concedimus aliquo Statuto Actu Ordinatione aut alia Re quacunque in contrarium non obstante Quia vero in tam longinqua Regione inter tot Barbaras Nationes posita tam ipsorum Barbarorum quam aliorum Hostium Piratarum et Prædonum incursus verisimiliter timeri poterint Idcirco præfato modò Baroni de *Baltimore* ac Hæredibus et Assignatis suis per se vel per Capitaneos aut alios Officiarios suos omnes Homines cujuscunque Conditionis aut undecunque oriundos in dicta Provincia de *Terra Mariæ* pro Tempore existentes ad Vexilla vocandi Delectus habendi Bella gerendi Hostesque et Prædones prædictos Partes illas infestantes Terra Marique etiam ultra Provinciæ suæ Limites prosequendi eosque (si Deus dederit) profligandi et capiendi et captos Jure Belli occidendi vel pro Arbitrio suo servandi cæteraque omnia et singula quæ ad Capitanei Generalis Exercitus Jus et Officium spectant seu spectare consueverint faciendi adeo plenam et liberam ac quivis Capitaneus Generalis Exercitûs unquam habuit dedimus ac pro Nobis Hæredibus et Successoribus nostris damus Potestatem per Præsentes Volumus etiam et per hanc Chartam nostram præfato modò Baroni de *Baltimore* et Hæredibus et Assignatis suis Potestatem Libertatem et Authoritatem damus ut in Casu Rebellionis repentini Tumultus aut Seditionis si quæ (quod absit) sive super Terra infra Provinciam prædictam sive super alto Mari Itinere ad dictam Provinciam de *Terra Mariæ* faciendo vel inde redeundo oriri contigerit per se vel Capitaneos Deputatos aut alios Officiarios suos sub Sigillis suis ad hoc deputandos quibus etiam nos pro nobis Hæredibus et Successoribus nostris plenissimam per Præsentes Potestatem et Authoritatem damus et concedimus adversus Rerum novarum Partium illarum Authores seditiosos Regimini illius vel illorum se subtrahentes Militiam detrectantes Transfugas Emansores Desertores vel aliter utcunque contra Rem Morem et Disciplinam militarem delinquentes Jure utantur militari adeo libere et in tam amplis Modo et Forma prout aliquis Capitaneus Generalis Exercitus Virtute Officii sui eo uti possit aut consuevit Porro ne Viris honestè natis et se ad præsentem Expeditionem accincturis ac bene de nobis et Regnis nostris Pace et Bello mereri cupientibus in tam remota longèque dissita Regione omnis ad Honores et Dignitates Via præclusa et penitus obsepta esse vidiatur propterea Nos pro Nobis Hæredibus et Successoribus nostris præfato modò Baroni de *Baltimore* et Hæredibus et Assignatis suis liberam et plenariam Potestatem damus Favores Gratias et Honores in benemeritos Cives infra Provinciam prædictam inhabitantes conferendi Eosque quibuscunque Titulis et Dignitatibus (modo tales non fuerint quæ in *Anglia* nunc sunt in Usu) pro

Arbitrio suo decorandi Villas item in Burgos et Burgos in Civitates ad Inhabitantium Merita et Locorum Opportunitates cum Privilegiis et Immunitatibus congruis erigendi et incorporandi Cæteraque omnia et singula in Præmissis faciendi quæ illi vel illis congrua et opportuna esse videbuntur Etiam si talia fuerint quæ de sua Natura Mandatum et Warrantum exigant magis Speciale quam in Præsentibus sit expressum Volumus etiam ac per Præsentes pro nobis Hæredibus et Successoribus nostris præfato modò Baroni de *Baltimore* Hæredibus et Assignatis suis omnibusque prædictæ Provinciæ Incolis et Inhabitantibus quibuscunque præsentibus et futuris per hanc Chartam nostram Licentiam damus et concedimus ut Merces quascunque et Mercimonia ex dicta Provinciæ Fructibus et Commoditatibus terrestribus vel maritimis redigenda per se vel per Servos Factores aut Assignatos suos in quoscunque Portus nostros Hæredum et Successorum nostrorum *Angliæ* aut *Hiberniæ* liberè inferre et exonerare aut aliter de eisdem ibidem disponere Et si Opus fuerit easdem Merces infra unum Annum ab Exoneratione earum continuò numerandum rursus in Naves easdem vel alias onerare et in quascunque voluerint Regiones sive nostras sive extraneas de Amicitia nostra Hæredum et Successorum nostrorum deportare valeant Proviso semper quod tales et talia Custumas et Impositiones Subsidia et Telonia nobis Hæredibus et Successoribus nostris inde solvere teneantur quales et qualia reliqui subditi nostri Regni nostri *Angliæ* pro Tempore existentes solvere tenebuntur ultra quas et quæ præfatæ Provinciæ dictæ Terræ *Terra Mariæ* nuncupatæ Incolas gravari volumus Et ulterius de ampliori Gratia nostra speciali ac ex certa Scientia et mero Motu nostris pro nobis Hæredibus et Successoribus nostris concedimus præfato modo Baroni de *Baltimore* Hæredibus et Assignatis suis plenam et absolutam Potestatem et Authoritatem faciendi et erigendi et constituendi infra Provinciam de Terra Mariæ ac Insulas et Insululas prædictas tot et tales Portus maritimos Navium Stationes Crecas et alia Loca Exonerationis et Depositionis Bonorum et Mercimoniorum è Navibus Cymbis ac aliis Vasibus ac Onerationis in eadem et in tot et talibus Locis et cum talibus Juribus Jurisdictionibus Libertatibus et Privilegiis ad hujusmodi Portus spectantibus prout ei vel eis melius videbitur expedire quodque omnes et singulæ Naves Cymbæ et alia Vasa quæcunque Causa merchandizandi ad Provinciam et ex Provincia prædicta venientia et exeuntia ad hujusmodi Portus per dictum modò Baronem de *Baltimore* Hæredes et Assignatos suos sic erigendos et constituendos solummodo onerentur et exonerentur aliquo Usu Consuetudine aut aliqua alia Re in contrarium non obstante Salva semper Nobis Hæredibus et Successoribus nostris et omnibus Subitis Regni nostri *Angliæ* et *Hiberniæ* Hæredum et Successorum nostrorum Libertate piscandi Piscem marinum tam in Mari Æstuariis et Fretis et Fluminibus Navigio idoneis quam in Portubus Æstuariis et Crecis Provinciæ ante dictæ ac Privilegio saliendi et exsiccandi vel arefaciendi Pisces in Littoribus ejusdem Provinciæ et ea de Causa Buscam et Vimina ibidem crescentia succidere et capere et Casas et Tuguriola in hac Parte necessaria extruere prout rationabiliter hactenus usi fuerunt aut potuerunt Quibus quidem Libertatibus et Privilegiis dicti Subditi nostri Hæredum et Successorum nostrorum gaudebunt absque notabili Damno vel Injuria præfatò modò Baroni de *Baltimore* Hæredibus vel Assignatis suis aut ejusdem Provinciæ Incolis et Inhabitantibus in Portubus Crecis aut Littoribus prædictis et præsertim in Boscis et Sylvis ibidem crescentibus aliqualiter fienda Et si quis hujusmodi Damnum fecerit aut Injuriam gravis Indignationis nostræ Hæredum et Successorum nostrorum deditæque Legum Castigationis Periculum Pœnamque præter Emendationem subeat Volumus insuper statuimus et ordinamus ac per Præsentes pro Nobis Hæredibus et Successoribus nostris concedimus præfato modò Baroni de *Baltimore* Hæredibus et Assignatis suis quod idem Baro de *Baltimore* Hæredes et Assignati sui de Tempore in Tempus in perpetuum habeant et gaudeant Telonia et Subsidia in Portubus Navium Stationibus et aliis Crecis et Locis prædictis infra Provinciam prædictam solubilia sive emergentia pro Mercimoniis et Rebus ibidem onerandis et exonerandis per ipsos et Populos ibidem ut prædictum est Occasione emergente rationabiliter assidenda Quibus eadem justa de Causa debita Proportione assidere et inducere Telonia et Subsidia ibidem Potestatem pro Nobis Hæredibus et Successoribus nostris damus per præsentes Et ulterius de Gratia nostra speciali ac ex certa Scientia et mero Motu nostris dedimus concessimus et confirmavimus ac per Præsentes pro Nobis Hæredibus

et Successoribus nostris damus concedimus et confirmamus præfato modò Baroni de *Baltimore* Hæredibus et Assignatis suis plenam et absolutam Licentiam Potestatem et Authoritatem Quod ipse præfatus modò Baro Hæredes et Assignati sui de Tempore in Tempus imposterum imperpetuum ad ejus vel eorum Libitum et Voluntatem possint et valeant assignare alienare concedere demittere vel feoffare òremissorum tot tales et tantas Partes et Parcellas eas perquirere volenti vel volentibus quot quales et quantas duxerint opportunas habendum et tenendum eisdem Personæ et Personis eas capere vel perquirere volenti et volentibus Hæredibus et Assignatis suis in Feodo simplici vel Feodo talliato vel pro Termino Vitæ Vitarum vel Annorum Tenendum de præfato modò Baroni de *Baltimore* Hæredibus et Assignatis suis per tot talia et tanta hujusmodi Servitia Consuetudines et Redditus quot quanta et qualia eidem modò Baroni de *Baltimore* Hæredibus et Assignatis suis visum fuerit vel placuerit et non de nobis Hæredibus et Successoibrus nostris immediatè et eisdem Personæ et Personis et earum cuilibet et quibuslibet damus et per Præsentes pro Nobis Hæredibus et Successoribus nostris concedimus Licentiam Authoritatem et Potestatem quod tales Persona et Personæ Præmissa sive aliquam inde Parcellam de præfato modò Barone de *Baltimore* Hæredibus et Assignatis suis recipere possit et possint ac tenera sibi et Assignatis suis vel Hæredibus suis de quocunque Statu Hæreditario in Feodo simplici vel Feodo talliato vel aliter prout eis et modò Baroni de *Baltimore* Hæredibus et Assignatis suis videbitur expedire de eodem Barone de *Baltimore* Hæredibus et Assignatis suis Statuto in Parliamento Domini *Edwardi* Filii Regis *Henrici* nuper Regis *Angliæ* Progenitoris nostri edito communiter vocato "*Statutum quia Emptores Terrarum*" in Regno nostro *Angliæ* dudum edito aut aliquo alio Statuto Actu Ordinatione Usu Lege vel Consuetudine aut aliqua alia Re Causa vel Materia in contrarium inde antehac habita facta edita ordinata seu provisa in contrarium inde non obstante Ac eidem Baroni de *Baltimore* et Hæredibus suis Particulas aliquas Terræ infra Provinciam prædictam in Maneria erigere et in Maneriorum eorum singulis habere et tenere Curiam Baronis et omnia quæ ad Curiam Baronis pertinent et visum Franciplegii ad Conservationem Pacis et melius Partium illarum Regimen per se et Seneschallos suos vel aliorum Maneriorum illorum cum constituta fuerint Dominos pro Tempore existentes deputandos habere et custodire et in eisdem omnibus uti ad Visum Franciplegii pertinentibus Licentiam damus et concedimus per Præsentes Ac ulterius volumus ac per Præsentes pro Nobis Hæredibus et Successoribus nostris convenimus et concedimus ad et cum præfato modò Baroni de *Baltimore* Hæredibus et Assignatis suis quod nos Hæredes et Successores nostri nullo Tempore imposterum aliquas Impositiones Custumas aut alias Taxationes Quotas seu Contributiones quascunque imponemus aut imponi faciemus aut causabimus in aut super Incolas aut Inhabitantes Provinciæ prædictæ pro Bonis Terris vel Tenementis suis infra eandem Provinciam aut super aliqua Tenementa Terras Bona seu Catalla infra Provinciam prædictam aut in aut super aliqua Bona vel Merchandizas infra Provinciam prædictam aut infra Portus aut Navium Stationes dictæ Provinciæ onerandas seu exonerandas et hanc Declarationem nostram in omnibus Curiis et Prætoriis et coram quibuscunque Judicibus nostris Hæredum et Successorum nostrorum pro sufficiente et legitima Liberatione Solutione et Acquietantia inde de Tempore in Tempus recipi et allocari volumus ac pro nobis Hæredibus et Successoribus nostris jubemus et mandamus præcipientes omnibus et singulis Officiariis et Ministris nostris Hæredum et Successorum nostrorum et sub gravi Indignatione injungentes ne quid in contrarium Præmissorum ullo unquam Tempore attemptare audeant aut eisdem ullo modo contraveniant sed præfato modò Baroni de *Baltimore* et Hæredibus ac præfatæ Provinciæ de *Terra Mariæ* Incolis et Mercatoribus prædictis eorumque Servis et Ministris Factoribus et Assignatis in plenissimo hujus Chartæ nostræ Usu et Fruitione omni Tempore prout decet auxilientur et assistant Et ulterius volumus ac per Presentes pro Nobis Hæredibus et Successoribus nostris concedimus præfato modò Baroni de *Baltimore* Hæredibus et Assignatis suis et dictæ Provinciæ Terræ-tenentibus Habitatoribus præsentibus et futuris et singulis eorum quod Provincia prædicta Terræ-tenentes vel Incolæ ejusdem Coloniæ aut Patriæ vel Terræ *Virginiæ* aut alicujus alterius Coloniæ deductæ vel deducendæ Membrum vel Pars de cætero non habeantur vel reputentur aut de eisdem dependen-

tes sint aut Regimine subsint in aliquo Ipsamque et ipsos ab eisdem separamus et separatos esse volumus per Præsentes ac quod Coronæ nostræ *Angliæ* immediate sint subjecti et de eadem dependentes imperpetuum Et si fortè imposterum contingat Dubitationes aliquas Questiones circa verum Sensum et Intellectum alicujus Verbi Clausulæ vel Sententiæ in hac præsenti Charta nostra contentæ generari eam semper et in omnibus Interpretationem adhiberi et in quibuscunque Curiis et Prætoriis nostris obtinere volumus præcipimus et mandamus quæ præfato modò Baroni de *Baltimore* Hæredibus et Assignatis suis benignior utilior et favorabilior esse judicabitur Proviso semper quod nulla fiat Interpretatio per quam sacro-sancta Dei et vera Christiana Religio aut Ligeantia Nobis Hæredibus et Successoribus nostris debita Immutatione Prejudicio vel Dispendio in aliquo patiantur Eo quod expressa Mentio &c

In cujus Rei &c T. R. apud *Westmonasterium* XX°· Die Junii.

Per Breve de Privato Sigillo.

CONSTITUTION OF MARYLAND—1776.*

A DECLARATION OF RIGHTS, *and the* CONSTITUTION *and* FORM *of* GOVERNMENT, *agreed to by the Delegates of Maryland, in free and full Convention assembled.*

A DECLARATION OF RIGHTS, &c.

THE parliament of Great Britain, by a declaratory act, having assumed a right to make laws to bind the Colonies in all cases whatsoever, and, in pursuance of such claim, endeavoured, by force of arms, to subjugate the United Colonies to an unconditional submission to their will and power, and having at length constrained them to declare themselves independent States, and to assume government under the authority of the people;—Therefore we, the Delegates of Maryland, in free and full Convention assembled, taking into our most serious consideration the best means of establishing a good Constitution in this State, for the sure foundation and more permanent security thereof, declare,

I. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole.

II. That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.

III. That the inhabitants of Maryland are entitled to the common law of England, and the trial by jury, according to the course of that law, and to the benefit of such of the English statutes, as existed at the time of their first emigration, and which, by experience, have been found applicable to their local and other circumstances, and of such others as have been since made in England, or Great Britain, and have been introduced, used and practised by the courts of law or equity; and also to acts of Assembly, in force on the first of June seventeen hundred and seventy-four, except such as may have since expired, or have been or may be altered by acts of Convention, or this Declaration of Rights—subject, nevertheless, to the revision of, and amendment or repeal by, the Legislature of this State: and the inhabitants of Maryland are also entitled to all property, derived to them, from or under the Charter, granted by his Majesty Charles I. to Cæcilius Calvert, Baron of Baltimore.

IV. That all persons invested with the legislative or executive powers of government are the trustees of the public, and, as such, accountable for their conduct; wherefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought, to reform the old or establish a new government. The doctrine of

* This constitution was framed by a convention which met at Annapolis August 14, 1776, and completed its labors November 11, 1776. It was not submitted to the people.



non-resistance, against arbitrary power and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.

V. That the right in the people to participate in the Legislature, is the best security of liberty, and the foundation of all free government; for this purpose, elections ought to be free and frequent, and every man, having property in, a common interest with, and an attachment to the community, ought to have a right of suffrage.

VI. That the legislative, executive and judicial powers of government, ought to be forever separate and distinct from each other.

VII. That no power of suspending laws, or the execution of laws, unless by or derived from the Legislature, ought to be exercised or allowed.

VIII. That freedom of speech and debates, or proceedings in the Legislature, ought not to be impeached in any other court or judicature.

IX. That a place for the meeting of the Legislature ought to be fixed, the most convenient to the members thereof, and to the depository of public records; and the Legislature ought not to be convened or held at any other place, but from evident necessity.

X. That, for redress of grievances, and for amending, strengthening and preserving the laws, the Legislature ought to be frequently convened.

XI. That every man hath a right to petition the Legislature, for the redress of grievances, in a peaceable and orderly manner.

XII. That no aid, charge, tax, fee, or fees, ought to be set, rated, or levied, under any pretence, without consent of the Legislature.

XIII. That the levying taxes by the poll is grievous and oppressive, and ought to be abolished; that paupers ought not to be assessed for the support of government; but every other person in the State ought to contribute his proportion of public taxes, for the support of government, according to his actual worth, in real or personal property, within the State; yet fines, duties, or taxes, may properly and justly be imposed or laid, with a political view, for the good government and benefit of the community.

XIV. That sanguinary laws ought to be avoided, as far as is consistent with the safety of the State: and no law, to inflict cruel and unusual pains and penalties, ought to be made in any case, or at any time hereafter.

XV. That retrospective laws, punishing facts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; wherefore no *ex post facto* law ought to be made.

XVI. That no law, to attaint particular persons of treason or felony, ought to be made in any case, or at any time hereafter.

XVII. That every freeman, for any injury done him in his person or property, ought to have remedy, by the course of the law of the land, and ought to have justice and right freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

XVIII. That the trial of facts where they arise, is one of the greatest securities of the lives, liberties and estates of the people.

XIX. That, in all criminal prosecutions, every man hath a right to be informed of the accusation against him; to have a copy of the indictment or charge in due time (if required) to prepare for his defence; to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses, for and against him, on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

XX. That no man ought to be compelled to give evidence against himself, in a common court of law, or in any other court, but in such cases as have been usually practised in this State, or may hereafter be directed by the Legislature.

XXI. That no freeman ought to be taken, or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the judgment of his peers, or by the law of the land.

XXII. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted, by the courts of law.

XXIII. That all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants—to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special—are illegal, and ought not to be granted.

XXIV. That there ought to be no forfeiture of any part of the estate of any person, for any crime except murder, or treason against the State, and then only on conviction and attainder.

XXV. That a well-regulated militia is the proper and natural defence of a free government.

XXVI. That standing armies are dangerous to liberty, and ought not to be raised or kept up, without consent of the Legislature.

XXVII. That in all cases, and at all times, the military ought to be under strict subordination to and control of the civil power.

XXVIII. That no soldier ought to be quartered in any house, in time of peace, without the consent of the owner; and in time of war, in such manner only, as the Legislature shall direct.

XXIX. That no person, except regular soldiers, mariners, and marines in the service of this State, or militia when in actual service, ought in any case to be subject to or punishable by martial law.

XXX. That the independency and uprightness of Judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people; wherefore the Chancellor and Judges ought to hold commissions during good behaviour; and the said Chancellor and Judges shall be removed for misbehaviour, on conviction in a court of law, and may be removed by the Governor, upon the address of the General Assembly; *Provided*, That two-thirds of all the members of each House concur in such address. That salaries, liberal, but not profuse, ought to be secured to the Chancellor and the Judges, during the continuance of their commissions, in such manner, and at such times, as the Legislature shall hereafter direct, upon consideration of the circumstances of this State. No Chancellor or Judge ought to hold any other office, civil or military, or receive fees or perquisites of any kind.

XXXI. That a long continuance, in the first executive departments of power or trust, is dangerous to liberty; a rotation, therefore, in those departments, is one of the best securities of permanent freedom.

XXXII. That no person ought to hold, at the same time, more than one office of profit; nor ought any person, in public trust, to receive any present from any foreign prince or state, or from the United States, or any of them, without the approbation of this State.

XXXIII. That, as it is the duty of every man to worship God in such manner as he thinks most acceptable to him; all persons, professing the Christian religion, are equally entitled to protection in their religious liberty; wherefore no person ought by any law to be molested in his person or estate on account of his religious persuasion or profession, or for his religious practice; unless, under colour of religion, any man shall disturb the good order, peace or safety of the State, or shall infringe the laws of morality, or injure others, in their natural, civil, or religious rights; nor ought any person to be compelled to frequent or maintain, or contribute, unless on contract, to maintain any particular place of worship, or any particular ministry; yet the Legislature may, in their discretion, lay a general and equal tax, for the support of the Christian religion; leaving to each individual the power of appointing the payment over of the money, collected from him, to the support of any particular place of worship or minister, or for the benefit of the poor of his own denomination, or the poor in general of any particular county: but the churches, chapels, glebes, and all other property now belonging to the church of England, ought to remain to the church of England forever. And all acts of Assembly, lately passed, for collecting monies for building or repairing particular churches or chapels of ease, shall continue in force, and be executed, unless the Legislature shall, by act, supersede or repeal the same: but no county court shall assess any quantity of tobacco, or sum

of money, hereafter, on the application of any vestry-men or church-wardens; and every encumbent of the church of England, who hath remained in his parish, and performed his duty, shall be entitled to receive the provision and support established by the act, entitled "An act for the support of the clergy of the church of England, in this Province," till the November court of this present year, to be held for the county in which his parish shall lie, or partly lie, or for such time as he hath remained in his parish, and performed his duty.

XXXIV. That every gift, sale, or devise of lands, to any minister, public teacher, or preacher of the gospel, as such, or to any religious sect, order or denomination, or to or for the support, use or benefit of, or in trust for, any minister, public teacher, or preacher of the gospel, as such, or any religious sect order or denomination—and every gift or sale of goods, or chattels, to go in succession, or to take place after the death of the seller or donor, or to or for such support, use or benefit—and also every devise of goods or chattels to or for the support, use or benefit of any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination, without the leave of the Legislature, shall be void; except always any sale, gift, lease or devise of any quantity of land, not exceeding two acres, for a church, meeting, or other house of worship, and for a burying-ground, which shall be improved, enjoyed or used only for such purpose—or such sale, gift, lease, or devise, shall be void.

XXXV. That no other test or qualification ought to be required, on admission to any office of trust or profit, than such oath of support and fidelity to this State, and such oath of office, as shall be directed by this Convention, or the Legislature of this State, and a declaration of a belief in the Christian religion.

XXXVI. That the manner of administering an oath to any person, ought to be such, as those of the religious persuasion, profession, or denomination, of which such person is one, generally esteem the most effectual confirmation, by the attestation of the Divine Being. And that the people called Quakers, those called Dunkers, and those called Menonists, holding it unlawful to take an oath on any occasion, ought to be allowed to make their solemn affirmation, in the manner that Quakers have been heretofore allowed to affirm; and to be of the same avail as an oath, in all such cases, as the affirmation of Quakers hath been allowed and accepted within this State, instead of an oath. And further, on such affirmation, warrants to search for stolen goods, or for the apprehension or commitment of offenders, ought to be granted, or security for the peace awarded, and Quakers, Dunkers or Menonists ought also, on their solemn affirmation as aforesaid, to be admitted as witnesses, in all criminal cases not capital.

XXXVII. That the city of Annapolis ought to have all its rights, privileges and benefits, agreeable to its Charter, and the acts of Assembly confirming and regulating the same, subject nevertheless to such alteration as may be made by this Convention, or any future Legislature.

XXXVIII. That the liberty of the press ought to be inviolably preserved.

XXXIX. That monopolies are odious, contrary to the spirit of a free government, and the principles of commerce; and ought not to be suffered.

XL. That no title of nobility, or hereditary honours, ought to be granted in this State.

XLI. That the subsisting resolves of this and the several Conventions held for this Colony, ought to be in force as laws, unless altered by this Convention, or the Legislature of this State.

XLII. That this Declaration of Rights, or the Form of Government, to be established by this Convention, or any part or either of them, ought not to be altered, changed or abolished, by the Legislature of this State, but in such manner as this Convention shall prescribe and direct.

This Declaration of Rights was assented to, and passed, in Convention of the Delegates of the freemen of Maryland, begun and held at Annapolis, the 14th day of August, A. D. 1776.

By order of the Convention.

MAT. TILGHMAN, *President.*

The CONSTITUTION, *or* FORM *of* GOVERNMENT, *&c.*

I. THAT the Legislature consist of two distinct branches, a Senate and House of Delegates, which shall be styled, *The General Assembly of Maryland.*

II. That the House of Delegates shall be chosen in the following manner: All freemen, above twenty-one years of age, having a freehold of fifty acres of land, in the county in which they offer to vote, and residing therein—and all freemen, having property in this State above the value of thirty pounds current money, and having resided in the county, in which they offer to vote, one whole year next preceding the election, shall have a right of suffrage, in the election of Delegates for such county: and all freemen, so qualified, shall, on the first Monday of October, seventeen hundred and seventy-seven, and on the same day in every year thereafter, assemble in the counties, in which they are respectively qualified to vote, at the court-house, in the said counties; or at such other place as the Legislature shall direct; and, when assembled, they shall proceed to elect, *viva voce*, four Delegates, for their respective counties, of the most wise, sensible, and discreet of the people, residents in the county where they are to be chosen, one whole year next preceding the election, above twenty-one years of age, and having, in the State, real or personal property above the value of five hundred pounds current money; and upon the final casting of the polls, the four persons who shall appear to have the greatest number of legal votes shall be declared and returned duly elected for their respective counties.

III. That the Sheriff of each county, or, in case of sickness, his Deputy (summoning two Justices of the county, who are required to attend, for the preservation of the peace) shall be the judges of the election, and may adjourn from day to day, if necessary, till the same be finished, so that the whole election shall be concluded in four days; and shall make his return thereof, under his hand, to the Chancellor of this State for the time being.

IV. That all persons qualified, by the charter of the city of Annapolis, to vote for Burgesses, shall, on the same first Monday of October, seventeen hundred and seventy-seven, and on the same day in every year forever thereafter, elect, *viva voce*, by a majority of votes, two Delegates, qualified agreeable to the said charter; that the Mayor, Recorder, and Aldermen of the said city, or any three of them, be judges of the election, appoint the place in the said city for holding the same, and may adjourn from day to day, as aforesaid, and shall make return thereof, as aforesaid: but the inhabitants of the said city shall not be entitled to vote for Delegates for Anne-Arundel county, unless they have a freehold of fifty acres of land in the county distinct from the city.

V. That all persons, inhabitants of Baltimore town, and having the same qualifications as electors in the county, shall, on the same first Monday in October, seventeen hundred and seventy-seven, and on the same day in every year forever thereafter, at such place in the said town as the Judges shall appoint, elect, *viva voce*, by a majority of votes, two Delegates, qualified as aforesaid: but if the said inhabitants of the town shall so decrease, as that a number of persons, having a right of suffrage therein, shall have been, for the space of seven years successively, less than one half the number of voters in some one county in this State, such town shall thenceforward cease to send two Delegates or Representatives to the House of Delegates, until the said town shall have one half of the number of voters in some one county in this State.

VI. That the Commissioners of the said town, or any three or more of them, for the time being, shall be judges of the said election, and may adjourn, as aforesaid, and shall make return thereof, as aforesaid: but the inhabitants of the said town shall not be entitled to vote for, or be elected, Delegates for Baltimore county: neither shall the inhabitants of Baltimore county, out of the limits of Baltimore town, be entitled to vote for, or be elected, Delegates for the said town.

VII. That on refusal, death, disqualification, resignation, or removal out of this State of any Delegate, or on his becoming Governor, or member of the Council, a warrant of election shall issue by the Speaker, for the election of another in his place; of which ten days' notice, at least, (excluding the day of notice, and the day of election) shall be given.



VIII. That not less than a majority of the Delegates, with their Speaker (to be chosen by them, by ballot) constitute a House, for the transaction of any business other than that of adjourning.

IX. That the House of Delegates shall judge of the elections and qualifications of Delegates.

X. That the House of Delegates may originate all money bills, propose bills to the Senate, or receive those offered by that body; and assent, dissent, or propose amendments; that they may inquire, on the oath of witnesses, into all complaints, grievances, and offences, as the grand inquest of this State; and may commit any person, for any crime, to the public jail, there to remain till he be discharged by due course of law. They may expel any member, for a great misdemeanor, but not a second time for the same cause. They may examine and pass all accounts of the State, relating either to the collection or expenditure of the revenue, or appoint auditors, to state and adjust the same. They may call for all public or official papers and records, and send for persons, whom they may judge necessary in the course of their inquiries, concerning affairs relating to the public interest; and may direct all office bonds (which shall be made payable to the State) to be sued for any breach of duty.

XI. That the Senate may be at full and perfect liberty to exercise their judgment in passing laws—and that they may not be compelled by the House of Delegates, either to reject a money bill, which the emergency of affairs may require, or to assent to some other act of legislation, in their conscience and judgment injurious to the public welfare—the House of Delegates shall not, on any occasion, or under any pretence, annex to, or blend with a money bill, any matter, clause, or thing, not immediately relating to, and necessary for the imposing, assessing, levying, or applying the taxes or supplies, to be raised for the support of government, or the current expenses of the State: and to prevent altercation about such bills, it is declared, that no bill, imposing duties or customs for the mere regulation of commerce, or inflicting fines for the reformation of morals, or to enforce the execution of the laws, by which an incidental revenue may arise, shall be accounted a money bill: but every bill, assessing, levying, or applying taxes or supplies, for the support of government, or the current expenses of the State, or appropriating money in the treasury, shall be deemed a money bill.

XII. That the House of Delegates may punish, by imprisonment, any person who shall be guilty of a contempt in their view, by any disorderly or riotous behaviour, or by threats to, or abuse of their members, or by any obstruction to their proceedings. They may also punish, by imprisonment, any person who shall be guilty of a breach of privilege, by arresting on civil process, or by assaulting any of their members, during their sitting, or on their way to, or return from the House of Delegates, or by any assault of, or obstruction to their officers, in the execution of any order or process, or by assaulting or obstructing any witness, or any other person, attending on, or on their way to or from the House, or by rescuing any person committed by the House: and the Senate may exercise the same power, in similar cases.

XIII. That the Treasurers (one for the western, and another for the eastern shore) and the Commissioners of the Loan Office, may be appointed by the House of Delegates, during their pleasure; and in case of refusal, death, resignation, disqualification, or removal out of the State, of any of the said Commissioners or Treasurers, in the recess of the General Assembly, the governor, with the advice of the Council, may appoint and commission a fit and proper person to such vacant office, to hold the same until the meeting of the next General Assembly.

XIV. That the Senate be chosen in the following manner: All persons, qualified as aforesaid to vote for county Delegates, shall, on the first day of September, 1781, and on the same day in every fifth year forever thereafter, elect, *viva voce*, by a majority of votes, two persons for their respective counties (qualified as aforesaid to be elected county Delegates) to be electors of the Senate; and the Sheriff of each county, or, in case of sickness, his Deputy (summoning two Justices of the county, who are required to attend, for the preservation of the peace,) shall hold and be judge of the said election, and make return thereof, as aforesaid. And all persons, qualified as aforesaid, to vote for Delegates for the city of Annapolis and Baltimore

town, shall, on the same first Monday of September, 1781, and on the same day in every fifth year forever thereafter, elect, *viva voce*, by a majority of votes, one person for the said city and town respectively, qualified as aforesaid to be elected a Delegate for the said city and town respectively; the said election to be held in the same manner, as the election of Delegates for the said city and town; the right to elect the said elector, with respect to Baltimore town, to continue as long as the right to elect Delegates for the said town.

XV. That the said electors of the Senate meet at the city of Annapolis, or such other place as shall be appointed for convening the Legislature, on the third Monday in September, 1781, and on the same day in every fifth year forever thereafter, and they, or any twenty-four of them so met, shall proceed to elect, by ballot, either out of their own body, or the people at large, fifteen Senators (nine of whom to be residents on the western, and six to be residents on the eastern shore) men of the most wisdom, experience and virtue, above twenty-five years of age, residents of the State above three whole years next preceding the election, and having real and personal property above the value of one thousand pounds current money.

XVI. That the Senators shall be balloted for, at one and the same time, and out of the gentlemen residents of the western shore, who shall be proposed as Senators, the nine who shall, on striking the ballots, appear to have the greatest numbers in their favour, shall be accordingly declared and returned duly elected: and out of the gentlemen residents of the eastern shore, who shall be proposed as Senators, the six who shall, on striking the ballots, appear to have the greatest number in their favour, shall be accordingly declared and returned duly elected: and if two or more on the same shore shall have an equal number of ballots in their favour, by which the choice shall not be determined on the first ballot, then the electors shall again ballot, before they separate; in which they shall be confined to the persons who on the first ballot shall have an equal number: and they who shall have the greatest number in their favour on the second ballot, shall be accordingly declared and returned duly elected: and if the whole number should not thus be made up, because of an equal number, on the second ballot, still being in favour of two or more persons, then the election shall be determined by lot, between those who have equal numbers; which proceedings of the electors shall be certified under their hands, and returned to the Chancellor for the time being.

XVII. That the electors of Senators shall judge of the qualifications and elections of members of their body; and, on a contested election, shall admit to a seat, as an elector, such qualified person as shall appear to them to have the greatest number of legal votes in his favour.

XVIII. That the electors, immediately on their meeting, and before they proceed to the election of Senators, take such oath of support and fidelity to this State, as this Convention, or the Legislature, shall direct; and also an oath "to elect without favour, affection, partiality, or prejudice, such persons for Senators, as they, in their judgment and conscience, believe best qualified for the office."

XIX. That in case of refusal, death, resignation, disqualification, or removal out of this State, of any Senator, or on his becoming Governor, or a member of the Council, the Senate shall, immediately thereupon, or at their next meeting thereafter, elect by ballot (in the same manner as the electors are above directed to choose Senators) another person in his place, for the residue of the said term of five years.

XX. That not less than a majority of the Senate, with their President (to be chosen by them, by ballot) shall constitute a House, for the transacting any business, other than that of adjourning.

XXI. That the Senate shall judge of the elections and qualifications of Senators.

XXII. That the Senate may originate any other, except money bills, to which their assent or dissent only shall be given; and may receive any other bills from the House of Delegates, and assent, dissent, or propose amendments.

XXIII. That the General Assembly meet annually, on the first Monday of November, and if necessary, oftener.

XXIV. That each House shall appoint its own officers, and settle its own rules of proceeding.



XXV. That a person of wisdom, experience, and virtue, shall be chosen Governor, on the second Monday of November, seventeen hundred and seventy-seven, and on the second Monday in every year forever thereafter, by the joint ballot of both Houses (to be taken in each House respectively) deposited in a conference room; the boxes to be examined by a joint committee of both Houses, and the numbers severally reported, that the appointment may be entered; which mode of taking the joint ballot of both Houses shall be adopted in all cases. But if two or more shall have an equal number of ballots in their favour, by which the choice shall not be determined on the first ballot, then a second ballot shall be taken, which shall be confined to the persons who, on the first ballot, shall have had an equal number; and, if the ballots should again be equal between two or more persons, then the election of the Governor shall be determined by lot, between those who have equal numbers: and if the person chosen Governor shall die, resign, move out of the State, or refuse to act, (the General Assembly sitting) the Senate and House of Delegates shall, immediately thereupon, proceed to a new choice, in manner aforesaid.

XXVI. That the Senators and Delegates, on the second Tuesday of November, 1777, and annually on the second Tuesday of November forever thereafter, elect by joint ballot (in the same manner as Senators are directed to be chosen) five of the most sensible, discreet, and experienced men, above twenty-five years of age, residents in the State above three years next preceding the election, and having therein a freehold of lands and tenements, above the value of one thousand pounds current money, to be the Council to the Governor, whose proceedings shall be always entered on record, to any part whereof any member may enter his dissent; and their advice, if so required by the Governor, or any member of the Council, shall be given in writing, and signed by the members giving the same respectively: which proceedings of the Council shall be laid before the Senate, or House of Delegates, when called for by them or either of them. The Council may appoint their own Clerk, who shall take such oath of support and fidelity to this State, as this Convention, or the Legislature, shall direct; and of secrecy, in such matters as he shall be directed by the board to keep secret.

XXVII. That the Delegates to Congress, from this State, shall be chosen annually, or superseded in the mean time by the joint ballot of both Houses of Assembly; and that there be a rotation, in such manner, that at least two of the number be annually changed; and no person shall be capable of being a Delegate to Congress for more than three in any term of six years; and no person, who holds any office of profit in the gift of Congress, shall be eligible to sit in Congress; but if appointed to any such office, his seat shall be thereby vacated. That no person, unless above twenty-one years of age, and a resident in the State more than five years next preceding the election, and having real and personal estate in this State above the value of one thousand pounds current money, shall be eligible to sit in Congress.

XXVIII. That the Senators and Delegates, immediately on their annual meeting, and before they proceed to any business, and every person, hereafter elected a Senator or Delegate, before he acts as such, shall take an oath of support and fidelity to this State, as aforesaid; and before the election of a governor, or members of the Council, shall take an oath, "to elect without favour, affection, partiality, or prejudice, such person as Governor, or member of the Council, as they, in their judgment and conscience, believe best qualified for the office."

XXIX. That the Senate and Delegates may adjourn themselves respectively: but if the two Houses should not agree on the same time, but adjourn to different days, then shall the Governor appoint and notify one of those days, or some day between, and the Assembly shall then meet and be held accordingly; and he shall, if necessary, by advice of the Council, call them before the time, to which they shall in any manner be adjourned, on giving not less than ten days' notice thereof; but the Governor shall not adjourn the Assembly, otherwise than as aforesaid, nor prorogue or dissolve it, at any time.

XXX. That no person, unless above twenty-five years of age, a resident in this State above five years next preceding the election—and having in the State real and personal property, above the value of five thousand pounds, current money, (one thousand pounds whereof, at least, to be freehold estate) shall be eligible as governor.

XXXI. That the governor shall not continue in that office longer than three years successively, nor be eligible as Governor, until the expiration of four years after he shall have been out of that office.

XXXII. That upon the death, resignation, or removal out of this State, of the Governor, the first named of the Council, for the time being, shall act as Governor, and qualify in the same manner; and shall immediately call a meeting of the General Assembly, giving not less than fourteen days' notice of the meeting, at which meeting, a Governor shall be appointed, in manner aforesaid, for the residue of the year.

XXXIII. That the Governor, by and with the advice and consent of the Council, may embody the militia; and, when embodied, shall alone have the direction thereof; and shall also have the direction of all the regular land and sea forces, under the laws of this State, (but he shall not command in person, unless advised thereto by the Council, and then, only so long as they shall approve thereof); and may alone exercise all other the executive powers of government, where the concurrence of the Council is not required, according to the laws of this State; and grant reprieves or pardons for any crime, except in such cases where the law shall otherwise direct; and may, during the recess of the General Assembly, lay embargoes, to prevent the departure of any shipping, or the exportation of any commodities, for any time not exceeding thirty days in any one year—summoning the General Assembly to meet within the time of the continuance of such embargo; and may also order and compel any vessel to ride quarantine, if such vessel, or the port from which she may have come, shall, on strong grounds, be suspected to be infected with the plague; but the Governor shall not, under any pretence, exercise any power or prerogative by virtue of any law, statute, or custom of England or Great Britain.

XXXIV. That the members of the Council, or any three or more of them, when convened, shall constitute a board for the transacting of business; that the Governor, for the time being, shall preside in the Council, and be entitled to a vote, on all questions in which the Council shall be divided in opinion; and, in the absence of the Governor, the first named of the Council shall preside; and, as such, shall also vote, in all cases, where the other members disagree in their opinion.

XXXV. That, in case of refusal, death, resignation, disqualification, or removal out of the State, of any person chosen a member of the council, the members thereof, immediately thereupon, or at their next meeting thereafter, shall elect by ballot another person (qualified as aforesaid) in his place, for the residue of the year.

XXXVI. That the Council shall have power to make the Great Seal of this State, which shall be kept by the Chancellor for the time being, and affixed to all laws, commissions, grants, and other public testimonials, as has been heretofore practised in this State.

XXXVII. That no Senator, Delegate of Assembly, or member of the Council, if he shall qualify as such, shall hold or execute any office of profit, or receive the profits of any office exercised by any other person, during the time for which he shall be elected; nor shall any Governor be capable of holding any other office of profit in this State, while he acts as such. And no person, holding a place of profit or receiving any part of the profits thereof, or receiving the profits or any part of the profits arising on any agency, for the supply of clothing or provisions for the Army or Navy, or holding any office under the United States, or any of them—or a minister, or preacher of the gospel, of any denomination—or any person, employed in the regular land service, or marine, of this or the United States—shall have a seat in the General Assembly or the Council of this State.

XXXVIII. That every Governor, Senator, Delegate to Congress or Assembly, and member of the Council, before he acts as such, shall take an oath "that he will not receive, directly or indirectly, at any time, any part of the profits of any office, held by any other person, during his acting in his office of Governor, Senator, Delegate to Congress or Assembly, or member of the Council, or the profits or any part of the profits arising on any agency for the supply of clothing or provisions for the Army or Navy."

XXXIX. That if any Senator, Delegate to Congress or Assembly, or member of

the Council, shall hold or execute any office of profit, or receive, directly or indirectly, at any time, the profits or any part of the profits of any office exercised by any other person, during his acting as Senator, Delegate to Congress or Assembly, or member of the Council—his seat (on conviction, in a Court of law, by the oath of two credible witnesses) shall be void; and he shall suffer the punishment of wilful and corrupt perjury, or be banished this State forever, or disqualified forever from holding any office or place of trust or profit, as the Court may judge.

XL. That the Chancellor, all Judges, the Attorney-General, Clerks of the General Court, the Clerks of the County Courts, the Registers of the Land Office, and the Registers of Wills, shall hold their commissions during good behaviour, removable only for misbehaviour, on conviction in a Court of law.

XLI. That there be a Register of Wills appointed for each county, who shall be commissioned by the Governor, on the joint recommendation of the Senate and House of Delegates; and that, upon the death, resignation, disqualification, or removal out of the county of any Register of Wills, in the recess of the General Assembly, the Governor, with the advice of the Council, may appoint and commission a fit and proper person to such vacant office, to hold the same until the meeting of the General Assembly.

XLII. That Sheriffs shall be elected in each county, by ballot, every third year; that is to say, two persons for the office of Sheriff for each county, the one of whom having the majority of votes, or if both have an equal number, either of them, at the discretion of the Governor, to be commissioned by the Governor for the said office; and having served for three years, such person shall be ineligible for the four years next succeeding; bond with security to be taken every year, as usual; and no Sheriff shall be qualified to act before the same is given. In case of death, refusal, resignation, disqualification, or removal out of the county before the expiration of the three years, the other person, chosen as aforesaid, shall be commissioned by the Governor to execute the said office, for the residue of the said three years, the said person giving bond and security as aforesaid: and in case of his death, refusal, resignation, disqualification, or removal out of the county, before the expiration of the said three years, the Governor, with the advice of the Council, may nominate and commission a fit and proper person to execute the said office for the residue of the said three years, the said person giving bond and security as aforesaid. The election shall be held at the same time and place appointed for the election of Delegates; and the Justices, there summoned to attend for the preservation of the peace, shall be judges thereof, and of the qualification of candidates, who shall appoint a Clerk, to take the ballots. All freemen above the age of twenty-one years, having a freehold of fifty acres of land in the county in which they offer to ballot, and residing therein—and all freemen above the age of twenty-one years, and having property in the State above the value of thirty pounds current money, and having resided in the county in which they offer to ballot one whole year next preceding the election—shall have a right of suffrage. No person to be eligible to the office of Sheriff for a county, but an inhabitant of the said county above the age of twenty-one years, and having real and personal property in the State above the value of one thousand pounds current money. The Justices aforesaid shall examine the ballots; and the two candidates properly qualified, having in each county the majority of legal ballots, shall be declared duly elected for the office of Sheriff for such county, and returned to the Governor and Council, with a certificate of the number of ballots for each of them.

XLIII. That every person who shall offer to vote for Delegates, or for the election of the Senate, or for the Sheriff, shall (if required by any three persons qualified to vote) before he be permitted to poll, take such oath or affirmation of support and fidelity to this State, as this Convention or the Legislature shall direct.

XLIV. That a Justice of the Peace may be eligible as a Senator, Delegate, or member of the Conncil, and may continue to act as a Justice of the Peace.

XLV. That no field officer of the militia be eligible as a Senator, Delegate, or member of the Council.

XLVI. That all civil officers, hereafter to be appointed for the several counties of this State, shall have been residents of the county, respectively, for which they shall

be appointed, six months next before their appointment; and shall continue residents of their county, respectively, during their continuance in office.

XLVII. That the Judges of the General Court, and Justices of the County Courts, may appoint the Clerks of their respective Courts; and in case of refusal, death, resignation, disqualification, or removal out of the State, or from their respective shores, of the Clerks of the General Court, or either of them, in the vacation of the said Court—and in case of the refusal, death, resignation, disqualification, or removal out of the county, of any of the said County Clerks, in the vacation of the County Court of which he is Clerk—the Governor, with the advice of the Council, may appoint and commission a fit and proper person to such vacant office respectively, to hold the same until the meeting of the next General Court, or County Court, as the case may be.

XLVIII. That the Governor, for the time being, with the advice and consent of the Council, may appoint the Chancellor, and all Judges and Justices, the Attorney-General, Naval Officers, officers in the regular land and sea service, officers of the militia, Registers of the Land Office, Surveyors, and all other civil officers of government (Assessors, Constables, and Overseers of the roads only excepted) and may also suspend or remove any civil officer who has not a commission, during good behaviour; and may suspend any militia officer, for one month: and may also suspend or remove any regular officer in the land or sea service: and the Governor may remove or suspend any militia officer, in pursuance of the judgment of a Court Martial.

XLIX. That all civil officers of the appointment of the Governor and Council, who do not hold commissions during good behaviour, shall be appointed annually in the third week of November. But if any of them shall be reappointed, they may continue to act, without any new commission or qualification; and every officer, though not reappointed, shall continue to act, until the person who shall be appointed and commissioned in his stead shall be qualified.

L. That the Governor, every member of the Council, and every Judge and Justice, before they act as such, shall respectively take an oath, "That he will not, through favour, affection or partiality vote for any person to office; and that he will vote for such person as, in his judgment and conscience, he believes most fit and best qualified for the office; and that he has not made, nor will make, any promise or engagement to give his vote or interest in favor of any person."

LI. That there be two Registers of the Land Office, one upon the western, and one upon the eastern shore: that short extracts of the grants and certificates of the land, on the western and eastern shores respectively, be made in separate books, at the public expense, and deposited in the offices of the said Registers, in such manner as shall hereafter be provided by the General Assembly.

LII. That every Chancellor, Judge, Register of Wills, Commissioner of the Loan Office, Attorney-General, Sheriff, Treasurer, Naval Officer, Register of the Land Office, Register of the Chancery Court, and every Clerk of the common law courts, Surveyor and Auditor of the public accounts, before he acts as such, shall take an oath "That he will not directly or indirectly receive any fee or reward, for doing his office of   , but what is or shall be allowed by law; nor will, directly or indirectly, receive the profits or any part of the profits of any office held by any other person; and that he does not hold the same office in trust, or for the benefit of any other person."

LIII. That if any Governor, Chancellor, Judge, Register of Wills, Attorney-General, Register of the Land Office, Register of the Chancery Court, or any Clerk of the common law courts, Treasurer, Naval Officer, Sheriff, Surveyor or Auditor of public accounts, shall receive, directly or indirectly, at any time, the profits, or any part of the profits of any office, held by any other person, during his acting in the office to which he is appointed; his election, appointment and commission (on conviction in a court of law by oath of two credible witnesses) shall be void; and he shall suffer the punishment for wilful and corrupt perjury, or be banished this State forever, or disqualified forever from holding any office or place of trust or profit, as the court may adjudge.

LIV. That if any person shall give any bribe, present, or reward, or any promise, or any security for the payment or delivery of any money, or any other thing, to

obtain or procure a vote to be Governor, Senator, Delegate to Congress or Assembly, member of the Council, or Judge; or to be appointed to any of the said offices, or to any office of profit or trust, now created or hereafter to be created in this State—the person giving, and the person receiving the same (on conviction in a court of law) shall be forever disqualified to hold any office of trust or profit in this State.

LV. That every person, appointed to any office of profit or trust, shall, before he enters on the execution thereof, take the following oath; to wit: "I, A. B., do swear, that I do not hold myself bound in allegiance to the King of Great Britain, and that I will be faithful, and bear true allegiance to the State of Maryland;" and shall also subscribe a declaration of his belief in the Christian religion.

LVI. That there be a Court of Appeals, composed of persons of integrity and sound judgment in the law, whose judgment shall be final and conclusive, in all cases of appeal, from the General Court, Court of Chancery, and Court of Admiralty: that one person of integrity and sound judgment in the law, be appointed Chancellor: that three persons of integrity and sound judgment in the law, be appointed judges of the Court now called the Provincial Court; and that the same Court be hereafter called and known by the name of *The General Court;* which Court shall sit on the western and eastern shores, for transacting and determining the business of the respective shores, at such times and places as the future Legislature of this State shall direct and appoint.

LVII. That the style of all laws run thus; "*Be it enacted by the General Assembly of Maryland:*" that all public commissions and grants run thus; "*The State of Maryland,*" &c. and shall be signed by the Governor, and attested by the Chancellor, with the seal of the State annexed—except military commissions, which shall not be attested by the Chancellor, or have the seal of the State annexed: that all writs shall run in the same style, and be attested, sealed and signed as usual: that all indictments shall conclude, "*Against the peace, government, and dignity of the State.*"

LVIII. That all penalties and forfeitures, heretofore going to the King or proprietary, shall go to the State—save only such, as the General Assembly may abolish or otherwise provide for.

LIX. That this Form of Government, and the Declaration of Rights, and no part thereof, shall be altered, changed, or abolished, unless a bill so to alter, change or abolish the same shall pass the General Assembly, and be published at least three months before a new election, and shall be confirmed by the General Assembly, after a new election of Delegates, in the first session after such new election; provided that nothing in this form of government, which relates to the eastern shore particularly, shall at any time hereafter be altered, unless for the alteration and confirmation thereof at least two-thirds of all the members of each branch of the General Assembly shall concur.

LX. That every bill passed by the General Assembly, when engrossed, shall be presented by the Speaker of the House of Delegates, in the Senate, to the Governor for the time being, who shall sign the same, and thereto affix the Great Seal, in the presence of the members of both Houses: every law shall be recorded in the General Court office of the western shore, and in due time printed, published, and certified under the Great Seal, to the several County Courts, in the same manner as hath been heretofore used in this State.

THIS Form of Government was assented to, and passed in Convention of the Delegates of the freemen of Maryland, begun and held at the city of Annapolis, the fourteenth of August, A. D. one thousand seven hundred and seventy-six.

By order of the Convention.

M. TILGHMAN, *President.*

AMENDMENTS TO THE CONSTITUTION OF 1776.

RATIFIED 1792.

ART. II. *Be it enacted by the general assembly of Maryland,* That no member of Congress, or person holding any office of trust or profit under the United States, shall be capable of having a seat in the general assembly, or being an elector of the senate, or holding any office of trust or profit under this State; and if any member of the general assembly, elector of the senate, or person holding any office of trust or profit under this State, shall take his seat in Congress, or accept of any office of trust or profit under the United States, or being elected to Congress, or appointed to any office of trust or profit under the United States, not make his resignation of his seat in Congress, or of his office, as the case may be, within thirty days after notice of his election or appointment to office, as aforesaid, his seat in the legislature of this State, or as elector of the senate, or of his office held under this State as aforesaid, shall be void: *Provided,* That no person who is now, or may be at any time when this act becomes part of the constitution, a member both of Congress and of the legislature of the State, or who now holds, or may hold at the time when this act becomes part of the constitution, an office as aforesaid, both under this State and the United States, shall be affected by this act, if within fifteen days after the same shall become part of the constitution he shall resign his seat in Congress or his office held under the United States.

RATIFIED 1795.

ART. III. That every person being a member of either of the religious sects or societies called Quakers, Menonists, Tunkers, or Nicolites, or New Quakers, and who shall be conscientiously scrupulous of taking an oath on any occasion, being otherwise qualified and duly elected a senator, delegate, or elector of the senate, or being otherwise qualified and duly appointed or elected to any office of profit or trust, on making affirmation instead of taking the several oaths appointed by the constitution and form of government, and the several acts of assembly of this State now in force, or that hereafter may be made, such persons may hold and exercise any office of profit or trust to which he may be appointed or elected, and may, by such affirmation, qualify himself to take a seat in the legislature, and to act therein as a member of the same in all cases whatsoever, or to be an elector of the senate, in as full and ample a manner, to all intents and purposes whatever, as persons are now competent and qualified to act who are not conscientiously scrupulous of taking such oaths.

RATIFIED 1798.

ART. V. SECTION 1. That the people called Quakers, those called Nicolites, or New Quakers, those called Tunkers, and those called Menonists, holding it unlawful to take an oath on any occasion, shall be allowed to make their solemn affirmation as witnesses, in the manner that Quakers have been heretofore allowed to affirm, which affirmation shall be of the same avail as an oath, to all intents and purposes whatever.

SEC. 2. Before any of the persons aforesaid shall be admitted as a witness in any court of justice in this State, the court shall be satisfied, by such testimony as they may require, that such person is one of those who profess to be conscientiously scrupulous of taking an oath.

RATIFIED 1799.

ART. VI. SECTION 1. That the several counties of this State, for the purpose of holding all future elections for delegates, electors of the senate, and sheriffs of the several counties, shall be divided into separate districts, in the manner hereinafter directed, viz: Saint Mary's County shall be divided and laid off into separate districts; Kent County shall be divided and laid off into three separate districts; Calvert County shall be divided and laid off into three separate districts; Charles County shall be divided and laid off into four separate districts; Talbot County shall be

divided and laid off into four separate districts; Somerset County shall be divided and laid off into three separate districts; Dorchester County shall be divided and laid off into three separate districts; Cecil County shall be divided and laid off into four separate districts; Prince George's County shall be divided and laid off into five separate districts; Queen Anne's County shall be divided and laid off into three separate districts; Worcester County shall be divided and laid off into five separate districts; Frederick County shall be divided and laid off into separate districts; Harford County shall be divided and laid off into five separate districts; Caroline County shall be divided and laid off into three separate districts; Washington County shall be divided and laid off into five separate districts; Montgomery County shall be divided and laid off into five separate districts; Alleghany County shall be divided and laid off into six separate districts; Anne Arundel County, including the city of Annapolis, shall be divided and laid off into five separate districts; Baltimore County, out of the limits of the city of Baltimore, shall be divided and laid off into seven districts; and that the city of Baltimore shall be laid off into eight districts.

SEC. 2. All and every part of the constitution and form of government, relating to the judges, time, place, and manner of holding elections in the city of Baltimore, and all and every part of the second, third, fifth, fourteenth, and forty-second sections of the constitution and form of government of this State, which relate to the judges, place, time, and manner of holding the several elections for delegates, electors of the senate, and the sheriffs of the several counties, be, and the same are hereby, abrogated, repealed, and annulled, and the same shall hereafter be regulated by law.

RATIFIED 1803.

ART. VIII. That Frederick County shall be divided and laid off into nine separate districts.

RATIFIED 1805.

ART. IX. SECTION 1. That this State shall be divided into six judicial districts, in manner and form following, to wit: Saint Mary's, Charles, and Prince George's Counties shall be the first district; Cecil, Kent, Queen Anne's, and Talbot Counties shall be the second district; Calvert, Anne Arundel, and Montgomery Counties shall be the third district; Caroline, Dorchester, Somerset, and Worcester Counties shall be the fourth district; Frederick, Washington, and Alleghany Counties shall be the fifth district; Baltimore and Harford Counties shall be the sixth district; and there shall be appointed for each of the said judicial districts three persons of integrity and sound legal knowledge, residents of the State of Maryland, who shall, previous to, and during their acting as judges, reside in the district for which they shall respectively be appointed, one of whom shall be styled in the commission chief judge, and the other two associate judges of the district for which they shall be appointed; and the chief judge, together with the two associate judges, shall compose the county courts in each respective district; and each judge shall hold his commission during good behavior; removal for misbehavior, on conviction in a court of law, or shall be removed by the governor, upon the address of the general assembly, provided that two-thirds of the members of each house concur in such address; and the county courts, so as aforesaid established, shall have, hold, and exercise, in the several counties of this State, all and every the powers, authorities, and jurisdictions which the county courts of this State now have, use, and exercise, and which shall be hereafter prescribed by law; and the said county courts established by this act shall respectively hold their sessions in the several counties at such times and places as the legislature shall direct and appoint; and the salaries of the said judges shall not be diminished during the period of their continuance in office.

SEC. 2. In any suit or action at law hereafter to be commenced or instituted in any county court of this State, the judges thereof, upon suggestion in writing, by either of the parties thereto, supported by affidavit, or other proper evidence, that a fair and impartial trial cannot be had in the county court of the county where such suit or action is depending, shall and may order and direct the record of their proceedings in such suit or action to be transmitted to the judges of any county court within the district, for trial, and the judges of such county court, to whom the said record

shall be transmitted, shall hear and determine the same in like manner as if such suit or action had been originally instituted therein: *Provided, nevertheless*, That such suggestion shall be made as aforesaid, before or during the term in which the issue or issues may be joined in said suit or action: *And provided also*, That such further remedy may be provided by law in the premises as the legislature shall from time to time direct and enact.

ART. III. If any party presented or indicted, in any of the county courts of this State, shall suggest, in writing, to the court in which such prosecution is depending, that a fair and impartial trial cannot be had in such court, it shall and may be lawful for the said court to order and direct the record of their proceedings in the said prosecution to be transmitted to the judge of any adjoining county court, for trial; and the judges of such adjoining county court shall hear and determine the same, in the same manner as if such prosecution had been originally instituted therein: *Provided*, That such further and other remedy may be provided by law in the premises as the legislature may direct and enact.

ART. IV. If the attorney-general, or the prosecutor for the State, shall suggest, in writing, to any county court before whom an indictment is or may be depending, that the State cannot have a fair and impartial trial in such court, it shall and may be lawful for the said court, in their discretion, to order and direct the record of their proceedings in the said prosecution to be transmitted to the judges of any adjoining county court for trial; and the judges of such county court shall hear and determine the same, as if such prosecution had been originally instituted therein.

ART. V. There shall be a court of appeals, and the same shall be composed of the chief judges of the several judicial districts of the State; which said court of appeals shall hold, use, and exercise all and singular the powers, authorities, and jurisdictions, heretofore held, used, and exercised by the court of appeals of this State, and also the appellate jurisdiction heretofore used and exercised by the general court; and the said court of appeals hereby established shall sit on the western and eastern shores, for transacting and determining the business of the respective shores, at such times and places as the future legislature of this State shall direct and appoint; and any three of the said judges of the court of appeals shall form a quorum to hear and decide in all cases pending in said court; and the judge who has given a decision in any case in the county court shall withdraw from the bench upon the deciding of the same case before the court of appeals; and the judges of the court of appeals may appoint the clerks of said court for the western and eastern shores respectively, who shall hold their appointments during good behavior, removable only for misbehavior, on conviction in a court of law; and, in case of death, resignation, disqualification, or removal out of the State, or from their respective shores, of either of the said clerks, in the vacation of the said court, the governor, with the advice of the council, may appoint and commission a fit and proper person to such vacant office, to hold the same until the next meeting of the said court; and all laws passed after this act shall take effect shall be recorded in the office of the court of appeals of the western shore.

RATIFIED 1807.

ART. X. That Saint Mary's County shall be divided into four separate districts, and that the additional district shall be laid off adjoining and between the first and third districts, as they are now numbered.

RATIFIED 1809.

ART. XI. SECTION 1. That, upon the death, resignation, or removal out of this State of the governor, it shall not be necessary to call a meeting of the legislature to fill the vacancy occasioned thereby, but the first named of the council for the time being shall qualify and act as governor, until the next meeting of the general assembly, at which meeting a governor shall be chosen in the manner heretofore appointed and directed.

SEC. 2. No governor shall be capable of holding any other office of profit during the time for which he shall be elected.

RATIFIED 1810.

ART. XII. That all such parts of the constitution and form of government as require a property qualification in persons to be appointed or holding offices of profit or trust in this State, and in persons elected members of the legislature or electors of the senate, shall be, and the same are hereby, repealed and abolished.

ART. XIII. That it shall not be lawful for the general assembly of this State to lay an equal and general tax, or any other tax, on the people of this State, for the support of any religion.

ART. XIV. That every free white male citizen of this State, above twenty-one years of age, and no other, having resided twelve months within this State, and six months in the county, or in the city of Annapolis or Baltimore, next preceding the election at which he offers to vote, shall have a right of suffrage, and shall vote, by ballot, in the election of such county or city, or either of them, for electors of the President and Vice-President of the United States, for Representatives of this State in the Congress of the United States, for delegates to the general assembly of this State, electors of the senate, and sheriffs.

ART. XV. That no person residing in the city of Annapolis shall have a vote in the county of Anne Arundel, for delegates of the said county; and all and every part of the constitution which enables persons holding fifty acres of land to vote in said county, be, and is hereby, abolished.

ART. XVI. That the forty-fifth article of the constitution and form of government be, and the same is hereby, repealed and utterly abolished.

RATIFIED 1812.

ART. XVII. SECTION 1. That the time of the meeting of the general assembly shall be on the first Monday in December in each year, instead of the first Monday in November, as prescribed by the constitution and form of government.

SEC. 2. The governor of this State shall be chosen on the second Monday of December, in each and every year, in the same manner as is now prescribed by the constitution and form of government; and the council to the governor shall be elected on the first Tuesday after the second Monday of December, in each and every year, in the same manner as is now prescribed by the constitution and form of government.

SEC. 3. All annual appointments of civil officers in this State shall be made in the third week of December, in every year, in the same manner as the constitution and form of government now directs.

RATIFIED 1837.

SECTION 1. The term of office of the members of the present senate shall end and be determined whenever and as soon as a new senate shall be elected as hereinafter provided, and a quorum of its members shall have qualified, as directed by the constitution and laws of this State.

SEC. 2. At the December session of the general assembly for the year of our Lord eighteen hundred and thirty-eight, and forever thereafter, the senate shall be composed of twenty-one members, to be chosen as hereinafter provided, a majority of whom shall be a quorum for the transaction of business.

SEC. 3. At the time and place of holding elections in the several counties of this State, and in the city of Baltimore, for delegates to the general assembly for the December session of the year eighteen hundred and thirty-eight, and under the direction of the same judges by whom such elections for delegates shall be held, an election shall also be held in each of the several counties of this State and in the city of Baltimore respectively, for the purpose of choosing a senator of the State of Maryland for and from such county or said city, as the case may be, whose term of office shall commence on the day fixed by law for the commencement of the regular session of the general assembly next succeeding such election, and continue for two, four, or six years, according to the classification of a quorum of its members; and at every such election for senators, every person qualified to vote at the place at which he shall offer to vote for delegates to the general assembly, shall be entitled to vote for

one person as senator; and of the persons voted for as senator in each of the several counties and in said city, respectively, the person having the highest number of legal votes, and possessing the qualifications hereinafter mentioned, shall be declared and returned as duly elected for said county or said city, as the case may be; and in case two persons possessing the required qualifications shall be found on the final casting of the votes given, in any one of said counties or said city, to have an equal number of votes, there shall be a new election ordered as hereinafter mentioned; and immediately after the senate shall have convened in pursuance of their election under this act, the senators shall be divided, in such manner as the senate shall prescribe, into three classes; the seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third thereof may be elected on the first Wednesday of October in every second year; and elections shall be held in the several counties and city, from which the retiring senators came, to supply the vacancies as they may occur in consequence of this classification.

SEC. 4. Such election for senators shall be conducted, and the returns thereof be made, with proper variations in the certificate to suit the case, in like manner as in cases of elections for delegates.

SEC. 5. The qualifications necessary in a senator shall be the same as are required in a delegate to the general assembly, with the additional qualification that he shall be above the age of twenty-five years, and shall have resided at least three years, next preceding his election, in the county or city in and for which he shall be chosen.

SEC. 6. In case any person who shall have been chosen as a senator shall refuse to act, remove from the county or city, as the case may be, for which he shall have been elected, die, resign, or be removed for cause, or in case of a tie between two or more qualified persons in any one of the counties or in the city of Baltimore, a warrant of election shall be issued by the president of the senate for the time being for the election of a senator to supply the vacancy, of which ten days' notice at the least, excluding the day of notice and the day of election, shall be given.

SEC. 7. So much of the thirty-seventh article of the constitution as provides that no senator or delegate to the general assembly, if he shall qualify as such, shall hold or execute any office of profit during the time for which he shall be elected, shall be, and the same is hereby, repealed.

SEC. 8. No senator or delegate to the general assembly shall, during the time for which he was elected, be appointed to any civil office under the constitution and laws of this State which shall have been created or the emoluments whereof shall have been increased during such time; and no senator or delegate, during the time he shall continue to act as such, shall be eligible to any civil office whatever.

SEC. 9. At the election for delegates to the general assembly for the December session of the year of our Lord eighteen hundred and thirty-eight, and at each succeeding election for delegates, until after the next census shall have been taken and officially promulged, five delegates shall be elected in and for Baltimore City and one delegate in and for the city of Annapolis, until the promulging of the census for the year eighteen hundred and forty, when the city of Annapolis shall be deemed and taken as a part of Anne Arundel County, and her right to a separate delegation shall cease; five delegates in and for Baltimore County; five delegates in and for Frederick County, and four delegates in and for Anne Arundel County, and four delegates in and for each of the several counties respectively hereinafter mentioned, to wit: Dorchester, Somerset, Worcester, Prince George's, Harford, Montgomery, Carroll, and Washington, and three delegates in and for each of the several counties respectively hereinafter next mentioned, to wit: Cecil, Kent, Queen Anne's, Caroline, Talbot, Saint Mary's, Charles, Calvert, and Alleghany.

SEC. 10. From and after the period when the next census shall have been taken and officially promulged, and from and after the official promulgation of every second census thereafter, the representation in the house of delegates from the several counties and from the city of Baltimore shall be graduated and established on the following basis: that is to say, every county which shall have by the said census a

population of less than fifteen thousand souls, federal numbers, shall be entitled to elect three delegates; every county having a population by the said census of fifteen thousand souls and less than twenty-five thousand souls, federal numbers, shall be entitled to elect four delegates; and every county having by the said census a population of twenty-five thousand and less than thirty-five thousand souls, federal numbers, shall be entitled to elect five delegates; and every county having a population of upwards of thirty-five thousand souls, federal numbers, shall be entitled to elect six delegates; and the city of Baltimore shall be entitled to elect as many delegates as the county which shall have the largest representation, on the basis aforesaid, may be entitled to elect: *Provided, and it is hereby enacted*, That if any of the several counties hereinbefore mentioned shall not, after the said census for the year eighteen hundred and forty shall have been taken, be entitled by the graduation on the basis aforesaid to a representation in the house of delegates equal to that allowed to such county by the ninth section of this act, at the election of delegates for the December session of the year eighteen hundred and thirty-eight, such county shall, nevertheless, after said census for the year eighteen hundred and forty, or any future census, and forever thereafter, be entitled to elect the number of delegates allowed by the provisions of said section for the said session; but nothing in the proviso contained shall be construed to include in the representation of Anne Arundel County the delegate allowed to the city of Annapolis in the said ninth section of this act.

SEC. 11. In all elections for senators, to be held after the election for delegates, for the December session, eighteen hundred and thirty-seven, the city of Annapolis shall be deemed and taken as part of Anne Arundel County.

SEC. 12. The general assembly shall have power from time to time to regulate all matters relating to the judges, time, place, and manner of holding elections for senators and delegates, and of making returns thereof, and to divide the several counties into election districts, for the more convenient holding of elections, not affecting their terms or tenure of office.

SEC. 13. So much of the constitution and form of government as relates to the council, to the governor, and to the clerk of the council, be abrogated, abolished, and annulled, and that the whole executive power of the government of this State shall be vested exclusively in the governor, subject, nevertheless, to the checks, limitations, and provisions hereinafter specified and mentioned.

SEC. 14. The governor shall nominate, and, by and with the advice and consent of the senate, shall appoint all officers of the State whose offices are or may be created by law, and whose appointment shall not be otherwise provided for by the constitution and form of government, or by any laws consistent with the constitution and form of government: *Provided*, That this act shall not be deemed or construed to impair in any manner the validity of the commissions of such persons as shall be in office under previous executive appointment, when this act shall go into operation, or alter, abridge, or change the tenure, quality, or duration of the same, or of any of them.

SEC. 15. The governor shall have power to fill any vacancy that may occur in any such offices during the recess of the senate, by granting commissions which shall expire upon the appointment of the same person, or any other person, by and with the advice and consent of the senate, to the same office, or at the expiration of one calendar month, ensuing the commencement of the next regular session of the senate, whichever shall first occur.

SEC. 16. The same person shall in no case be nominated by the governor a second time during the same session for the same office, in case he shall have been rejected by the senate, unless after such rejection the senate shall inform the governor by message of their willingness to receive again the nomination of such rejected person for further consideration; and in case any person nominated by the governor for any office shall have been rejected by the senate, it shall not be lawful for the governor at any time afterwards, during the recess of the senate, in case of vacancy in the same office, to appoint such rejected person to fill said vacancy.

SEC. 17. It shall be the duty of the governor, within the period of one calendar month next after this act shall go into operation, and in the same session in which

the same shall be confirmed, if it be confirmed, and annually thereafter during the regular session of the senate, and on such particular day, if any, or within such particular period as may be prescribed by law, to nominate, and by and with the advice and consent of the senate, to appoint a secretary of state, who shall hold his office until a successor shall be appointed, and who shall discharge such duties, and receive such compensation, as shall be prescribed by law.

SEC. 18. In case a vacancy shall occur in the office of governor at any time after this act shall go into operation, the general assembly, if in session, or if in the recess at their next session, shall proceed to elect, by joint ballot of the two houses, some person, being a qualified resident of the gubernatorial district from which the governor for said term is to be taken, to be governor for the residue of said term in place of the person originally chosen; and in every case of vacancy, until the election and qualification of the person succeeding, the secretary of state, by virtue of his said office, shall be clothed, *ad interim*, with the executive powers of government; and in case there shall be no secretary of state, or in case he shall refuse to act, remove from the State, die, resign, or be removed for cause, the person filling the office of president of the senate shall, by virtue of his said office, be clothed, *ad interim*, with the executive powers of government; and in case there shall be no president of the senate, or in case he shall refuse to act, remove from the State, die, resign, or be removed for cause, the person filling the office of speaker of the house of delegates shall, by virtue of his said office, be clothed, *ad interim*, with the executive powers of government.

SEC. 19. The term of office of the governor, who shall be chosen on the first Monday of January next, shall continue for the term of one year, and until the election and qualification of a successor, to be chosen as hereinafter mentioned.

SEC. 20. At the time and places of holding the elections in the several counties of this State, and in the city of Baltimore, for delegates to the general assembly for the December session of the year eighteen hundred and thirty-eight, and before the same judges by whom the election for delegates shall be held, and in every third year forever thereafter, an election shall also be held for a governor of this State, whose term of office shall commence on the first Monday of January next ensuing the day of such election, and continue for three years, and until the election and qualification of a successor; at which said election every person qualified to vote for delegates to the general assembly, at the place at which he shall offer to vote, shall be entitled to vote for governor, and the person voted for as governor shall possess the qualifications now required by the constitution and form of government, and the additional qualification of being at least thirty years of age, and of being, and of having been for at least three whole years before, a resident within the limits of the gubernatorial district from which the governor is to be taken at such election, according to the priority which shall be determined as hereinafter mentioned; that is to say, the State shall be, and the same is hereby, divided into three gubernatorial districts, as follows: the counties of Cecil, Kent, Queen Anne's, Caroline, Talbot, Dorchester, Somerset, and Worcester shall together compose one district, and until its number shall be determined as hereinafter provided, shall be known as the eastern district; the counties of Saint Mary's, Charles, Calvert, Prince George's, Anne Arundel, inclusive of the city of Annapolis, Montgomery, and Baltimore City, shall together compose one district, and, until its number shall be determined as hereinafter provided, shall be known as the southern district; Baltimore, Harford, Carroll, Frederick, Washington, and Alleghany Counties shall together compose one district, and until its number shall be determined as hereinafter provided, shall be known as the northwestern district; and for the purpose of determining the respective numbers and order of priority of said districts in the same session in which this act shall be confirmed, if the same shall be confirmed as hereinafter mentioned, and on some day to be fixed by concurrence of the two branches, the speaker of the house of delegates shall present to the president of the senate, in the senate chamber, a box containing three ballots of similar size and appearance, and on which shall severally be written, eastern district, southern district, northwestern district; and the president of the senate shall thereupon draw from said box the said several ballots in succession, and the district, the name of which shall be written on the ballot first drawn, shall thenceforth

be distinguished as the first gubernatorial district, and the person to be chosen governor at the election first to be held under the provisions of this section, and the person to be chosen at every succeeding third election for governor forever thereafter, shall be taken from the said first district; and the district, the name of which shall be written on the ballot secondly drawn, shall thenceforth be distinguished as the second gubernatorial district, and the person to be chosen governor at the second election to be held under the provisions of this section, and the person to be chosen at every succeeding third election for governor forever thereafter, shall be taken from the said second district, and the district, the name of which shall be written on the ballot thirdly drawn, shall thenceforth be distinguished as the third gubernatorial district, and the person to be chosen governor at the third election to be held under the provisions of this section, and the person to be chosen at every succeeding third election forever thereafter, shall be taken from the said third district; and the result of such drawing shall be entered on the journal of the senate, and be reported by the speaker of the house of delegates on his return to that body, and be entered on the journal thereof, and shall be certified by a joint letter, to be signed by the president of the senate and the speaker of the house of delegates, and be addressed and transmitted to the secretary of state, if appointed, and if not, as soon as he shall be appointed, to be by him preserved in his office.

Sec. 21. The general assembly shall have power to regulate by law all matters which relate to the judges, time, place, and manner of holding elections for governor, and of making returns thereof not affecting the tenure and term of office thereby, and that until otherwise directed, the returns shall be made in like manner as in elections for electors of President and Vice-President, save that the form of the certificates shall be varied to suit the case, and save also that the returns, instead of being made to the governor and council, shall be made to the senate, and be addressed to the president of the senate, and be inclosed under cover to the secretary of state, by whom they shall be delivered to the president of the senate, at the commencement of the session next ensuing such election.

Sec. 22. Of the persons voted for as governor at any such election, the person having, in the judgment of the senate, the highest number of legal votes, and possessing the legal qualifications, and resident, as aforesaid, in the district from which the governor at such election is to be taken, shall be governor, and shall qualify in the manner prescribed by the constitution and laws, on the first Monday of January next ensuing his election, or as soon thereafter as may be, and all questions in relation to the number or legality of the votes given for each and any person voted for as governor, and in relation to the returns, and in relation to the qualifications of the persons voted for as governor, shall be decided by the senate, and in case two or more persons, legally qualified according to the provisions of this act, shall have an equal number of legal votes, then the senate and house of delegates, upon joint ballot, shall determine which one of them shall be governor, and the one which, upon counting the ballots, shall have the highest number of votes, shall be governor, and shall qualify accordingly.

Sec. 23. No person who shall be elected, and shall act as governor, shall be again eligible for the next succeeding term.

Sec. 24. The elections to be held in pursuance of this act shall be held on the first Wednesday of October, in the year eighteen hundred and thirty-eight; and for the election of delegates on the same day in every year thereafter, for the election of governor on the same day in every third year thereafter, and for the election of senators of the first class, on the same day, in the second year after their election and classification, and on the same day in every sixth year thereafter; and for the election of senators of the second class, on the same day in the fourth year after their election and classification, and on the same day in every sixth year thereafter; and for the election of senators of the third class, on the same day, in the sixth year after their election and classification, and on the same day in every sixth year thereafter.

Sec. 25. In all elections for governor, the city of Annapolis shall be deemed and taken as part of Anne Arundel County.

Sec. 26. The relation of master and slave, in this State, shall not be abolished,

unless a bill so to abolish the same shall be passed by a unanimous vote of the members of each branch of the general assembly, and shall be published at least three months before a new election of delegates, and shall be confirmed by a unanimous vote of the members of each branch of the general assembly, at the next regular constitutional session after such new election, nor then, without full compensation to the master for the property of which he shall be thereby deprived.

SEC. 27. The city of Annapolis shall continue to be the seat of government, and the place of holding the sessions of the court of appeals for the western shore, and the high court of chancery.

SEC. 28. If this act shall be confirmed by the general assembly, after a new election of delegates, in the first session after such new election, agreeably to the provisions of the constitution and from of government, then and in such case this act, and the alterations and amendments of the constitution therein contained, shall be taken and considered, and shall constitute and be valid, as a part of said constitution and form of government, anything in the said constitution and form of government to the contrary notwithstanding.

RATIFIED 1846.

ART. XXVI. That the sessions of the general assembly be biennial instead of annual.

CONSTITUTION OF MARYLAND—1851.*

THE DECLARATION OF RIGHTS.

We, the people of the State of Maryland, grateful to Almighty God for our civil and religious liberty, and taking into our serious consideration the best means of establishing a good constitution in this State, for the sure foundation and more permanent security thereof, declare:

ARTICLE 1. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole; and they have at all times, according to the mode prescribed in this constitution, the unalienable right to alter, reform, or abolish their form of government, in such manner as they may deem expedient.

ART. 2. That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.

ART. 3. That the inhabitants of Maryland are entitled to the common law of England, and the trial by jury according to the course of that law, and to the benefit of such of the English statutes as existed on the fourth day of July, seventeen hundred and seventy-six, and which, by experience, have been found applicable to their local and other circumstances, and have been introduced, used, and practised by the courts of law or equity, and also of all acts of assembly in force on the first Monday of November, eighteen hundred and fifty, except such as may have since expired, or may be altered by this constitution, subject, nevertheless, to the revision of, and amendment or repeal by the legislature of this State; and the inhabitants of Maryland are also entitled to all property derived to them from or under the charter granted by His Majesty Charles the First to Cæcilius Calvert, Baron of Baltimore.

ART. 4. That all persons invested with the legislative or executive powers of government are the trustees of the public, and as such accountable for their conduct; wherefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought to, reform the old or establish a new government. The doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

* This constitution was framed by a convention which met at Annapolis November 4, 1850, and completed its labors May 13, 1851. It was ratified by the people June 4, 1851.



ART. 5. That the right of the people to participate in the legislature is the best security of liberty, and the foundation of all free government; for this purpose elections ought to be free and frequent, and every free white male citizen having the qualifications prescribed by the constitution ought to have the right of suffrage.

ART. 6. That the legislative, executive, and judicial powers of government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said departments shall assume or discharge the duties of any other.

ART. 7. That no power of suspending laws, or the execution of laws, unless by or derived from the legislature, ought to be exercised or allowed.

ART. 8. That freedom of speech and debate, or proceedings in the legislature, ought not to be impeached in any court of judicature.

ART. 9. That Annapolis be the place for the meeting of the legislature; and the legislature ought not to be convened or held at any other place but from evident necessity.

ART. 10. That for the redress of grievances, and for amending, strengthening, and preserving the laws, the legislature ought to be frequently convened.

ART. 11. That every man hath a right to petition the legislature for the redress of grievances in a peaceable and orderly manner.

ART. 12. That no aid, charge, tax, burden, or fees ought to be rated or levied, under any pretence, without the consent of the legislature.

ART. 13. That the levying of taxes by the poll is grievous and oppressive, and ought to be abolished; that paupers ought not to be assessed for the support of government, but every other person in the State, or person holding property therein, ought to contribute his proportion of public taxes, for the support of government, according to his actual worth in real or personal property; yet fines, duties, or taxes may properly and justly be imposed or laid on persons or property, with a political view, for the good government and benefit of the community.

ART. 14. That sanguinary laws ought to be avoided as far as is consistent with the safety of the State; and no law to inflict cruel and unusual pains and penalties ought to be made in any case, or at any time hereafter.

ART. 15. That retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; wherefore, no *ex post facto* law ought to be made.

ART. 16. That no law to attaint particular persons of treason or felony ought to be made in any case or at any time hereafter.

ART. 17. That every freeman, for any injury done to him in his person or property, ought to have remedy by the course of the law of the land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

ART. 18. That the trial of facts, where they arise, is one of the greatest securities of the lives, liberties, and estate of the people.

ART. 19. That in all criminal prosecutions, every man hath a right to be informed of the accusation against him; to have a copy of the indictment or charge, in due time (if required) to prepare for his defence; to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

ART. 20. That no man ought to be compelled to give evidence against himself in a court of common law, or in any other court, but in such cases as have been usually practised in this State, or may hereafter be directed by the legislature.

ART. 21. That no freeman ought to be taken or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the judgment of his peers, or by the law of the land: *Provided*, That nothing in this article shall be so construed as to prevent the legislature from passing all such laws for the government, regulation, and disposition of the free colored population of this State as they may deem necessary.

ART. 22. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted by the courts of law.

ART. 23. That all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.

ART. 24. That no conviction shall work corruption of blood or forfeiture of estate.

ART. 25. That a well-regulated militia is the proper and natural defence of a free government.

ART. 26. That standing armies are dangerous to liberty, and ought not to be raised or kept up without consent of the legislature.

ART. 27. That in all cases and at all times the military ought to be under strict subordination to, and control of, the civil power.

ART. 28. That no soldier ought to be quartered in any house in time of peace without the consent of the owner, and in time of war in such manner only as the legislature shall direct.

ART. 29. That no person, except regular soldiers, mariners, and marines, in the service of this State, or militia when in actual service, ought in any case to be subject to or punishable by martial law.

ART. 30. That the independency and uprightness of judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people; wherefore the judges shall not be removed, except for misbehavior, on conviction in a court of law, or by the governor, upon the address of the general assembly: *Provided*, That two-thirds of all the members of each house concur in such address. No such judge shall hold any other office, civil or military, or political trust or employment of any kind whatsoever, under the constitution or laws of this State, or of the United States, or any of them, or receive fees or perquisites of any kind for the discharge of his official duties.

ART. 31. That a long continuance in the executive departments of power or trust is dangerous to liberty; a rotation, therefore, in those departments is one of the best securities of permanent freedom.

ART. 32. That no person ought to hold at the same time more than one office of profit, created by the constitution or laws of this State; nor ought any person in public trust to receive any present from any foreign prince or state, or from the United States, or any of them, without the approbation of this State.

ART. 33. That as it is the duty of every man to worship God in such manner as he thinks most acceptable to him, all persons are equally entitled to protection in their religious liberty; wherefore, no person ought, by any law, to be molested in his person or estate, on account of his religious persuasion or profession, or for his religious practice, unless under color of religion any man shall disturb the good order, peace, or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil, or religious rights; nor ought any person to be compelled to frequent or maintain or contribute, unless on contract, to maintain any place of worship or any ministry; nor shall any person be deemed incompetent as a witness or juror who believes in the existence of a God, and that under his dispensation such person will be held morally accountable for his acts, and be rewarded or punished therefor, either in this world or the world to come.

ART. 34. That no other test or qualification ought to be required, on admission to any office of trust or profit, than such oath of office as may be prescribed by this constitution, or by the laws of the State, and a declaration of belief in the Christian religion; and if the party shall profess to be a Jew, the declaration shall be of his belief in a future state of rewards and punishments.

ART. 35. That every gift, sale, or devise of land, to any minister, public teacher, or preacher of the gospel, as such, or to any religious sect, order, or denomination, or to or for the support, use, or benefit of, or in trust for any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination, and

every gift or sale of goods or chattels to go in succession, or to take place after the death of the seller or donor, to or for such support, use, or benefit; and also every devise of goods or chattels, to or for the support, use, or benefit of any minister, public teacher, or preacher of the gospel, as such; or any religious sect, order, or denomination, without the leave of the legislature, shall be void; except always any sale, gift, lease, or devise of any quantity of land, not exceeding five acres, for a church, meeting-house, or other house of worship, or parsonage, or for a burying-ground, which shall be improved, enjoyed, or used only for such purpose; or such sale, gift, lease, or devise shall be void.

ART. 36. That the manner of administering an oath or affirmation to any person ought to be such as those of the religious persuasion, profession, or denomination of which he is a member generally esteem the most effectual confirmation by the attestation of the Divine Being.

ART. 37. That the city of Annapolis ought to have all its rights, privileges, and benefits, agreeably to its charter and the acts of assembly confirming and regulating the same, subject to such alterations as have been or as may be made by the legislature.

ART. 38. That the liberty of the press ought to be inviolably preserved.

ART. 39. That monopolies are odious, contrary to the spirit of a free government and the principles of commerce, and ought not to be suffered.

ART. 40. That no title of nobility or hereditary honors ought to be granted in this State.

ART. 41. That the legislature ought to encourage the diffusion of knowledge and virtue, the promotion of literature, the arts, sciences, agriculture, commerce, and manufactures, and the general melioration of the condition of the people.

ART. 42. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ART. 43. That this constitution shall not be altered, changed, or abolished, except in the manner therein prescribed and directed.

THE CONSTITUTION.

ARTICLE I.

ELECTIVE FRANCHISE.

SECTION 1. Every free white male person, of twenty-one years of age or upwards, who shall have been one year next preceding the election a resident of the State, and for six months a resident of the city of Baltimore, or of any county in which he may offer to vote, and being at the time of the election a citizen of the United States, shall be entitled to vote in the ward or election district in which he resides, in all elections hereafter to be held; and at all such elections the vote shall be taken by ballot. And in case any county or city shall be so divided as to form portions of different electoral districts for the election of Congressmen, senator, delegate, or other officer or officers, then to entitle a person to vote for such officer, he must have been a resident of that part of the county or city which shall form a part of the electoral district in which he offers to vote for six months next preceding the election; but a person who shall have acquired a residence in such county or city entitling him to vote at any such election, shall be entitled to vote in the election district from which he removed until he shall have acquired a residence in the part of the county or city to which he has removed.

SEC. 2. That if any person shall give, or offer to give, directly or indirectly, any bribe, present, or reward, or any promise, or any security for the payment or delivery of money or any other thing to induce any voter to refrain from casting his vote, or forcibly to prevent him in any way from voting, or to obtain or procure a vote for any candidate or person proposed or voted for as elector of President and Vice-President of the United States, or Representative in Congress, or for any office of profit or trust created by the constitution or laws of this State, or by the ordinances or authority of

the mayor and city council of Baltimore, the person giving or offering to give, and the person receiving the same, and any person who gives or causes to be given an illegal vote, knowing it to be so, at any election to be hereafter held in this State, shall, on conviction in a court of law, in addition to the penalties now or hereafter to be imposed by law, be forever disqualified to hold any office of profit or trust, or to vote at any election thereafter.

SEC. 3. It shall be the duty of the general assembly of Maryland to pass laws to punish with fine and imprisonment any person who shall remove into any election district or ward of the city of Baltimore, not for the purpose of acquiring a *bona-fide* residence therein, but for the purpose of voting therein at an approaching election, or who shall vote in any election district or ward in which he does not reside, (except in the case provided for in the first article of the constitution,) or shall, at the same election, vote in more than one election district or ward, or shall vote or offer to vote in any name not his own, or in place of any other person of the same name, or shall vote in any county in which he does not reside.

SEC. 4. Every person elected or appointed to any office of profit or trust under the constitution or laws made pursuant thereto, before he shall enter upon the duties of such office shall take and subscribe the following oath or affirmation: "I, A. B., do swear [or affirm, as the case may be] that I will support the Constitution of the United States, and that I will be faithful and bear true allegiance to the State of Maryland, and support the constitution and laws thereof; that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of ——— according to the constitution and laws of this State, and that since the adoption of the present constitution I have not in any manner violated the provisions thereof in relation to the bribery of voters or preventing legal or procuring illegal votes to be given; and [if a governor, senator, member of the house of delegates, or judge] that I will not directly or indirectly receive the profits or any part of the profits of any other office during the time of my acting as ———." And if any person, elected or appointed to office as aforesaid, shall refuse or neglect to take the said oath or affirmation, he shall be considered as having refused to accept the said office, and a new election or appointment shall be made as in case of refusal or resignation, and any person swearing or affirming falsely in the premises shall, on conviction thereof in a court of law, incur the penalties for wilful and corrupt perjury, and be thereafter incapable of voting at any election, and also incapable of holding any office of profit or trust in this State.

SEC. 5. That no person above the age of twenty-one years, convicted of larceny or other infamous crime, unless he shall be pardoned by the executive, shall ever thereafter be entitled to vote at any election in this State, and no person under guardianship as a lunatic, or as a person *non compos mentis*, shall be entitled to vote.

ARTICLE II.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive power of the State shall be vested in a governor, whose term of office shall commence on the second Wednesday of January next ensuing his election, and continue for four years, and until his successor shall have qualified.

SEC. 2. The first election for governor under this constitution shall be held on the first Wednesday of November, in the year eighteen hundred and fifty-three, and on the same day and month in every fourth year thereafter, at the places of voting for delegates to the general assembly, and every person qualified to vote for delegates shall be qualified and entitled to vote for governor; the election to be held in the same manner as the election of delegates, and the returns thereof, under seal, to be addressed to the speaker of the house of delegates, and inclosed and transmitted to the secretary of state, and delivered to the said speaker at the commencement of the session of the legislature next ensuing said election.

SEC. 3. The speaker of the house of delegates shall then open the said returns in the presence of both houses, and the person having the highest number of votes, and being constitutionally eligible, shall be the governor, and shall qualify in the manner



herein prescribed, on the second Wednesday of January next ensuing his election, or as soon thereafter as may be practicable.

SEC. 4. If two or more persons shall have the highest and an equal number of votes, one of them shall be chosen governor by the senate and house of delegates; and all questions in relation to the eligibility of governor, and to the returns of said election, and to the number and legality of votes therein given, shall be determined by the house of delegates. And if the person or persons having the highest number of votes be ineligible, the governor shall be chosen by the senate and house of delegates. Every election of governor, by the legislature, shall be determined by a joint majority of the senate and house of delegates, and the vote shall be taken *viva voce*. But if two or more persons shall have the highest and an equal number of votes, then a second vote shall be taken, which shall be confined to the persons having an equal number; and if the votes should again be equal, then the election of governor shall be determined by lot between those who shall have the highest and an equal number on the first vote.

SEC. 5. The State shall be divided into three districts, Saint Mary's, Charles, Calvert, Prince George's, Anne Arundel, Montgomery, and Howard Counties, and the city of Baltimore, to be the first; the eight counties of the eastern shore to be the second; and Baltimore, Harford, Frederick, Washington, Alleghany, and Carroll Counties to be the third. The governor, elected from the third district in October last, shall continue in office during the term for which he was elected. The governor shall be taken from the first district, at the first election of governor under this constitution; from the second district at the second election, and from the third district at the third election, and in like manner, afterwards, from each district, in regular succession.

SEC. 6. A person to be eligible to the office of governor must have attained the age of thirty years, and been for five years a citizen of the United States, and for five years next preceding his election a resident of the State, and for three years a resident of the district from which he was elected.

SEC. 7. In case of the death or resignation of the governor, or of his removal from the State, the general assembly, if in session, or if not, at their next session, shall elect some other qualified resident of the same district to be the governor for the residue of the term for which the said governor had been elected.

SEC. 8. In case of any vacancy in the office of governor during the recess of the legislature, the president of the senate shall discharge the duties of said office till a governor is elected as herein provided for; and in case of the death or resignation of said president, or of his removal from the State, or of his refusal to serve, then the duties of said office shall, in like manner, and for the same interval, devolve upon the speaker of the house of delegates, and the legislature may provide by law for the case of impeachment or inability of the governor, and declare what person shall perform the executive duties during such impeachment or inability; and for any vacancy in said office, not herein provided for, provision may be made by law, and if such vacancy should occur without such provision being made, the legislature shall be convened by the secretary of state for the purpose of filling said vacancy.

SEC. 9. The governor shall be commander-in-chief of the land and naval forces of the State, and may call out the militia to repel invasions, suppress insurrections, and enforce the execution of the laws; but shall not take the command in person without the consent of the legislature.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. He shall nominate and, by and with the advice and consent of the senate, appoint all civil and military officers of the State, whose appointment or election is not otherwise herein provided for, unless a different mode of appointment be prescribed by the law creating the office.

SEC. 12. In case of any vacancy during the recess of the senate, in any office which the governor has power to fill, he shall appoint some suitable person to said office, whose commission shall continue in force till the end of the next session of the legislature, or till some other person is appointed to the same office, whichever shall first occur, and the nomination of the person thus appointed during the recess, or of some other

person in his place, shall be made to the senate within thirty days after the next meeting of the legislature.

SEC. 13. No person, after being rejected by the senate, shall be again nominated for the same office at the same session, unless at the request of the senate; or be appointed to the same office during the recess of the legislature.

SEC. 14. All civil officers appointed by the governor and senate shall be nominated to the senate within fifty days from the commencement of each regular session of the legislature; and their term of office shall commence on the first Monday of May next ensuing their appointment, and continue for two years, (unless sooner removed from office,) and until their their successors, respectively, qualify according to law.

SEC. 15. The governor may suspend or arrest any military officer of the State for disobedience of orders, or other military offence, and may remove him in pursuance of the sentence of a court-martial; and may remove, for incompetency or misconduct, all civil officers who receive appointments from the executive for a term not exceeding two years.

SEC. 16. The governor may convene the legislature, or the senate alone, on extraordinary occasions; and whenever, from the presence of an enemy or from any other cause, the seat of government shall become an unsafe place for the meeting of the legislature, he may direct their sessions to be held at some other convenient place.

SEC. 17. It shall be the duty of the governor semi-annually, and oftener if he deem it expedient, to examine the bank-book, account-books, and official proceedings of the treasurer and comptroller of the State.

SEC. 18. He shall, from time to time, inform the legislature of the condition of the State, and recommend to their consideration such measures as he may judge necessary and expedient.

SEC. 19. He shall have power to grant reprieves and pardons, except in cases of impeachment, and in cases in which he is prohibited by other articles of this constitution, and to remit fines and forfeitures for offences against the State; but shall not remit the principal or interest of any debt due to the State, except in cases of fines and forfeitures; and before granting a *nolle prosequi*, or pardon, he shall give notice, in one or more newspapers, of the application made for it, and of the day on or after which his decision will be given; and in every case in which he exercises this power, he shall report to either branch of the legislature, whenever required, the petitions, recommendations, and reasons which influence his decision.

SEC. 20. The governor shall reside at the seat of government, and shall receive for his services an annual salary of thirty-six hundred dollars.

SEC. 21. When the public interest requires it, he shall have power to employ counsel, who shall be entitled to such compensation as the legislature may allow in each case after the services of such counsel shall have been performed.

SEC. 22. A secretary of state shall be appointed by the governor, by and with the advice and consent of the senate, who shall continue in office, unless sooner removed by the governor, till the end of the official term of the governor from whom he received his appointment, and shall receive an annual salary of one thousand dollars.

SEC. 23. He shall carefully keep and preserve a record of all official acts and proceedings, (which may, at all times, be inspected by a committee of either branch of the legislature,) and shall perform such other duties as may be prescribed by law, or as may properly belong to his office.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislature shall consist of two distinct branches, a senate and a house of delegates, which shall be styled "The general assembly of Maryland."

SEC. 2. Every county of the State, and the city of Baltimore, shall be entitled to elect one senator, who shall be elected by the qualified voters of the counties and city of Baltimore, respectively, and who shall serve for four years from the day of their election.

SEC. 3. The legislature at its first session after the returns of the national census of

eighteen hundred and sixty are published, and in like manner after each subsequent census, shall apportion the members of the house of delegates among the several counties of the State, according to the population of each, and shall always allow to the city of Baltimore four more delegates than are allowed to the most populous county, but no county shall be entitled to less than two members, nor shall the whole number of delegates ever exceed eighty, or be less than sixty-five; and, until the apportionment is made under the census of eighteen hundred and sixty, Saint Mary's County shall be entitled to two delegates; Kent, two; Anne Arundel, three; Calvert, two; Charles, two; Baltimore County, six; Talbot, two; Somerset, four; Dorchester, three; Cecil, three; Prince George's, three; Queen Anne's, two; Worcester, three; Frederick, six; Harford, three; Caroline, two; Baltimore City, ten; Washington, five; Montgomery, two; Alleghany, four; Carroll, three, and Howard, two.

SEC. 4. The members of the house of delegates shall be elected by the qualified voters of the counties and city of Baltimore respectively, to serve for two years from the day of their election.

SEC. 5. The first election for delegates shall take place on the first Wednesday of November, eighteen hundred and fifty-one; and the elections for delegates, and for one-half of the senators, as nearly as practicable, shall be held on the same day in every second year thereafter, but an election for senators shall he held in the year eighteen hundred and fifty-one in Howard County, and all those counties in which senators were elected in the year eighteen hundred and forty-six.

SEC. 6. Immediately after the senate shall have convened after the first election under this constitution, the senators shall be divided, by lot, into two classes, as nearly equal in number as may be; the senators of the first class shall go out of office at the expiration of two years, and senators shall be elected on the first Wednesday of November, eighteen hundred and fifty-three, for the term of four years, to supply their places; so that after the first election, one-half of the senators may be chosen every second year: *Provided*, That in no case shall any senator be placed in a class which shall entitle him to serve for a longer term than that for which he was elected. In case the number of senators be hereafter increased, such classification of the additional senators shall be made as to preserve as nearly as may be an equal number in each class.

SEC. 7. The general assembly shall meet on the first Wednesday of January, eighteen hundred and fifty-two, on the same day in the year eighteen hundred and fifty-three, and on the same day in the year eighteen hundred and fifty-four, and on the same day in every second year thereafter, and at no other time unless convened by the proclamation of the governor.

SEC. 8. The general assembly may continue their first two sessions after the adoption of this constitution as long as, in the opinion of the two houses, the public interests may require it, but all subsequent regular sessions of the general assembly shall be closed on the tenth day of March next ensuing the time of their commencement, unless the same shall be closed at an earlier day by the agreement of the two houses.

SEC. 9. No person shall be eligible as a senator or delegate who, at the time of his election, is not a citizen of the United States, and who has not resided at least three years next preceding the day of his election in this State, and the last year thereof in the county or city which he may be chosen to represent, if such county or city shall have been so long established, and if not, then in the county from which, in whole or in part, the same may have been formed; nor shall any person be eligible as a senator unless he shall have attained the age of twenty-five years, nor as a delegate unless he shall have attained the age of twenty-one years at the time of his election.

SEC. 10. No member of Congress, or person holding any civil or military office under the United States, shall be eligible as a senator or delegate; and if any person shall, after his election as a senator or delegate, be elected to Congress, or be appointed to any office, civil or military, under the Government of the United States, his acceptance thereof shall vacate his seat.

SEC. 11. No minister or preacher of the Gospel, of any denomination, and no per-

son holding any civil office of profit or trust under this State, except justices of the peace, shall be eligible as senator or delegate.

SEC. 12. Each house shall be judge of the qualifications and elections of its members, subject to the laws of the State; appoint its own officers, determine the rules of its own proceedings, punish a member for disorderly or disrespectful behavior, and, with the consent of two-thirds, expel a member; but no member shall be expelled a second time for the same offence.

SEC. 13. A majority of each house shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each house may prescribe.

SEC. 14. The doors of each house and of committees of the whole shall be open, except when the business is such as ought to be kept secret.

SEC. 15. Each house shall keep a journal of its proceedings, and cause the same to be published. The yeas and nays of members on any question shall, at the call of any five of them, in the house of delegates, or one in the senate, be entered on the journal.

SEC. 16. Neither house shall, without the consent of the other, adjourn for more than three days; nor to any other place than that in which the house shall be sitting, without the concurrent vote of two-thirds of the members present.

SEC. 17. The style of all laws of this State shall be, "*Be it enacted by the general assembly of Maryland*," and all laws shall be passed by original bill, and every law enacted by the legislature shall embrace but one subject, and that shall be described in the title, and no law or section of law shall be revived, amended, or repealed by reference to its title or section only, and it shall be the duty of the legislature, at the first session after the adoption of this constitution, to appoint two commissioners, learned in the law, to revise and codify the laws of this State; and the said commissioners shall report the said code, so formed, to the legislature, within a time to be by it determined, for its approval, amendment, or rejection; and, if adopted after the revision and codification of the said laws, it shall be the duty of the legislature, in amending any article or section thereof, to enact the same as the said article or section would read when amended. And whenever the legislature shall enact any public general law, not amendatory of any section or article in the said code, it shall be the duty of the legislature to enact the same in articles and sections, in the same manner as the said code may be arranged, and to provide for the publication of all additions and alterations which may be made to the said code; and it shall also be the duty of the legislature to appoint one or more commissioners learned in the law, whose duty it shall be to revise, simplify, and abridge the rules of practice, pleadings, forms of conveyancing, and proceedings of the courts of record in this State.

SEC. 18. Any bill may originate in either house of the general assembly, and be altered, amended, or rejected by the other, but no bill shall originate in either house during the last three days of the session, or become a law, until it be read on three different days of the session in each house, unless three-fourths of the members of the house where such bill is pending shall so determine.

SEC. 19. No bill shall become a law unless it be passed in each house by a majority of the whole number of members elected, and on its final passage the ayes and noes be recorded.

SEC. 20. No money shall be drawn from the treasury of the State, except in accordance with an appropriation made by law, and every such law shall distinctly specify the sum appropriated, and the object to which it shall be applied: *Provided*, That nothing herein contained shall prevent the legislature from placing a contingent fund at the disposal of the executive, who shall report to the legislature at each session the amount expended and the purposes to which it was applied. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws after each regular session of the general assembly.

SEC. 21. No divorce shall be granted by the general assembly.

SEC. 22. No debt shall hereafter be contracted by the legislature, unless such debt shall be authorized by a law providing for the collection of an annual tax or taxes

sufficient to pay the interest on such debt as it falls due, and also to discharge the principal thereof within fifteen years from the time of contracting the same, and the taxes laid for this purpose shall not be repealed or applied to any other object until the said debt and the interest thereon shall be fully discharged, and the amount of debts so contracted and remaining unpaid shall never exceed one hundred thousand dollars. The credit of the State shall not, in any manner, be given or loaned to or in aid of any individual, association, or corporation, nor shall the general assembly have the power, in any mode, to involve the State in the construction of works of internal improvement, or in any enterprise which shall involve the faith or credit of the State, or make any appropriations therefor. And they shall not use or appropriate the proceeds of the internal-improvement companies, or of the State tax now levied, or which may hereafter be levied, to pay off the public debt, to any other purpose, until the interest and debt are fully paid, or the sinking fund shall be equal to the amount of the outstanding debt; but the legislature may, without laying a tax, borrow an amount, never to exceed fifty thousand dollars, to meet temporary deficiencies in the treasury, and may contract debts to any amount that may be necessary for the defence of the State.

SEC. 23. No extra compensation shall be granted or allowed by the general assembly to any public officer, agent, servant, or contractor, after the services shall have been rendered or the contract entered into. Nor shall the salary or compensation of any public officer be increased or diminished during his term of office.

SEC. 24. No senator or delegate, after qualifying as such, shall, during the term for which he was elected, be eligible to any office which shall have been created, or the salary or profits of which shall have been increased, during such term, or shall, during said term, hold any office or receive the salary or profits of any office, under the appointment of the executive or legislature.

SEC. 25. Each house may punish by imprisonment, during the session of the general assembly, any person not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings or any of its officers in the execution of their duties: *Provided*, Such imprisonment shall not, at any one time, exceed ten days.

SEC. 26. The members of each house shall, in all cases, except treason, felony, or other criminal offence, be privileged from arrest during their attendance at the session of the general assembly, and in going to and returning from the same, allowing one day for every thirty miles such member may reside from the place at which the general assembly is convened.

SEC. 27. No senator or delegate shall be liable, in any civil action or criminal prosecution whatever, for words spoken in debate.

SEC. 28. The house of delegates may inquire, on the oath of witnesses, into all complaints, grievances, and offences, as the grand inquest of the State, and may commit any person for any crime to the public jail, there to remain until discharged by due course of law; they may examine and pass all accounts of the State relating either in the collection or expenditure of the revenue, and appoint auditors to state and adjust the same; they may call for all public or official papers and records, and send for persons whom they may judge necessary in the course of their inquiries concerning affairs relating to the public interest, and may direct all office bonds which shall be made payable to the State to be sued for any breach of duty.

SEC. 29. In case of death, disqualification, resignation, refusal to act, expulsion, or removal from the county or city for which he shall have been elected, of any person who shall have been chosen as a delegate or senator, or in case of a tie between two or more such qualified persons, a warrant of election shall be issued by the speaker of the house of delegates or president of the senate, as the case may be, for the election of another person in his place, of which election not less than ten days' notice shall be given, exclusive of the day of the publication of the notice and of the day of election; and in case of such resignation or refusal to act being communicated in writing, to the governor, by the person making it, or if such death occur during the legislative recess and more than ten days before its termination, it shall be the duty of the governor to issue a warrant of election to supply the vacancy thus created in

the same manner that the said speaker or president might have done during the session of the legislature: *Provided, however*, That unless a meeting of the general assembly may intervene, the election thus ordered to fill such vacancy shall be held on the day of the ensuing election for delegates and senators.

SEC. 30. The senators and delegates shall receive a per diem of four dollars, and such mileage as may be allowed by law, and the presiding officer of each house shall be allowed an addition of one dollar per day. No book or other printed matter not appertaining to the business of the session shall be purchased or subscribed for, for the use of the members, or be distributed among them at the public expense.

SEC. 31. No law passed by the general assembly shall take effect until the first day of June next after the session at which it may be passed, unless it be otherwise expressly declared therein.

SEC. 32. No law shall be passed creating the office of attorney-general.

SEC. 33. The general assembly shall have full power to exclude from the privilege of voting at elections, or of holding any civil or military office in this State, any person who may thereafter be convicted of perjury, bribery, or other felony, unless such person shall have been pardoned by the executive.

SEC. 34. Every bill, when passed by the general assembly, and sealed with the great seal, shall be presented to the governor, who shall sign the same in the presence of the presiding officers and chief clerks of the senate and house of delegates. Every law shall be recorded in the office of the court of appeals, and in due time be printed, published, and certified under the great seal to the several courts in the same manner as has been heretofore usual in this State.

SEC. 35. No person who may hereafter be a collector, receiver, or holder of public moneys shall be eligible as senator or delegate, or to any office of profit or trust under this State, until he shall have accounted for and paid into the treasury all sums on the books thereof, charged to and due by him.

SEC. 36. Any citizen of this State who shall, after the adoption of this constitution, either in or out of this State, fight a duel with deadly weapons, or send or accept a challenge so to do, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall ever thereafter be incapable of holding any office of trust or profit under this State.

SEC. 37. No lottery-grant shall ever hereafter be authorized by the legislature.

SEC. 38. The general assembly shall pass laws necessary to protect the property of the wife from the debts of the husband during her life, and for securing the same to her issue after her death.

SEC. 39. Laws shall be passed by the legislature to protect from execution a reasonable amount of the property of a debtor, not exceeding in value the sum of five hundred dollars.

SEC. 40. The legislature shall, at its first session after the adoption of this constitution, adopt some simple and uniform system of charges in the offices of clerks of courts and registers of wills in the counties of this State and the city of Baltimore, and for the collection thereof: *Provided*, The amount of compensation to any of said officers shall not exceed the sum of twenty-five hundred dollars a year, over and above office expenses, and compensation to assistants: *And provided further*, That such compensation of clerks, registers, assistants, and office expenses shall always be paid out of the fees or receipts of the offices respectively.

SEC. 41. The house of delegates shall have the sole power of impeachment in all cases, but a majority of all the members must concur in an impeachment; all impeachments shall be tried by the senate, and when sitting for that purpose they shall be on oath or affirmation to do justice according to the law and evidence, but no person shall be convicted without the concurrence of two-thirds of all the senators.

SEC. 42. That it shall be the duty of the legislature, so soon as the public debt shall have been fully paid off, to cause to be transferred to the several counties and the city of Baltimore stock in the internal-improvement companies, equal to the amount respectively paid by each toward the erection and completion of said works, at the then market-value of said stock.



SEC. 43. The legislature shall not pass any law abolishing the relation of master or slave, as it now exists in this State.

SEC. 44. No person shall be imprisoned for debt.

SEC. 45. The legislature hereafter shall grant no charter for banking purposes or renew any banking corporation now in existence, except upon the condition that the stockholders and directors shall be liable to the amount of their respective share or shares of stock in such banking institution for all its debts and liabilities upon note, bill, or otherwise; and upon the further condition that no director or other officer of said corporation shall borrow any money from said corporation; and if any director or other officer shall be convicted upon indictment of directly or indirectly violating this article, he shall be punished by fine or imprisonment at the discretion of the court. All banks shall be open to inspection of their books, papers, and accounts, under such regulations as may be prescribed by law.

SEC. 46. The legislature shall enact no law authorizing private property to be taken for public use, without just compensation, as agreed upon between the parties or awarded by a jury, being first paid or tendered to the party entitled to such compensation.

SEC. 47. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the object of the corporation cannot be attained under general laws. All laws and special acts, pursuant to this section, may be altered from time to time, or repealed: *Provided*, Nothing herein contained shall be construed to alter, change, or amend in any manner the article in relation to banks.

SEC. 48. The legislature shall make provision for all cases of contested elections of any of the officers not herein provided for.

SEC. 49. That the rate of interest in this State shall not exceed 6 per cent. per annum, and no higher rate shall be taken or demanded, and the legislature shall provide, by law, all necessary forfeitures and penalties against usury.

ARTICLE IV.

JUDICIARY DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in a court of appeals, in circuit courts, in such courts for the city of Baltimore as may be hereinafter prescribed, and in justices of the peace.

SEC. 2. The court of appeals shall have appellate jurisdiction only, which shall be coextensive with the limits of the State. It shall consist of a chief justice and three associate justices, any three of whom shall form a quorum, whose judgment shall be final and conclusive in all cases of appeals; and who shall have the jurisdiction which the present court of appeals of this State now has, and such other appellate jurisdiction as hereafter may be provided for by law. And in every case decided, an opinion, in writing, shall be filed, and provision shall be made by law for publishing reports of cases argued and determined in the said court. The governor, for the time being, by and with the advice and consent of the senate, shall designate the chief justice, and the court of appeals shall hold its sessions at the city of Annapolis, on the first Monday of June and the first Monday of December, in each and every year.

SEC. 3. The court of appeals shall appoint its own clerk, who shall hold his office for six years, and may be reappointed at the end thereof; he shall be subject to removal by the said court for incompetency, neglect of duty, misdemeanor in office, and for such other causes as may be prescribed by law.

SEC. 4. The State shall be divided into four judicial districts: Alleghany, Washington, Frederick, Carroll, Baltimore, and Harford Counties shall compose the first; Montgomery, Howard, Anne Arundel, Calvert, Saint Mary's, Charles, and Prince George's the second; Baltimore City the third; and Cecil, Kent, Queen Anne's, Talbot, Caroline, Dorchester, Somerset, and Worcester shall compose the fourth district. And one person from among those learned in the law, having been admitted to practise in this State, and who shall have been a citizen of this State at least five years, and above the age of thirty years at the time of his election, and a resident of the

judicial district, shall be elected from each of said districts by the legal and qualified voters therein, as a judge of the said court of appeals, who shall hold his office for the term of ten years from the time of his election, or until he shall have attained the age of seventy years, whichever may first happen, and be reëligible thereto until he shall have attained the age of seventy years, and not after, subject to removal for incompetency, wilful neglect of duty, or misbehavior in office, on conviction in a court of law, or by the governor upon the address of the general assembly, two-thirds of the members of each house concurring in such address; and the salary of each of the judges of the court of appeals shall be two thousand five hundred dollars annually, and shall not be increased or diminished during their continuance in office; and no fees or perquisites of any kind shall be allowed by law to any of the said judges.

SEC. 5. No judge of the court of appeals shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity within such degrees as may be prescribed by law, or when he shall have been of counsel in said case; when the court of appeals, or any of its members, shall be thus disqualified to hear and determine any case or cases in said court, so that by reason thereof no judgment can be rendered in said court, the same shall be certified to the governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of said case or cases.

SEC. 6. All judges of the court of appeals, of the circuit courts, and of the courts for the city of Baltimore, shall, by virtue of their offices, be conservators of the peace throughout the State.

SEC. 7. All public commissions and grants shall run thus: "The State of Maryland," &c., and shall be signed by the governor, with the seal of the State annexed; all writs and process shall run in the same style, and be tested, sealed, and signed as usual; and all indictments shall conclude, "against the peace, government, and dignity of the State."

SEC. 8. The State shall be divided into eight judicial circuits, in manner and form following, to wit: Saint Mary's, Charles, and Prince George's Counties shall be the first; Anne Arundel, Howard, Calvert, and Montgomery Counties shall be the second; Frederick and Carroll Counties shall be the third; Washington and Alleghany Counties shall be the fourth; Baltimore City shall be the fifth; Baltimore, Harford, and Cecil Counties shall be the sixth; Kent, Queen Anne's, Talbot, and Caroline Counties shall be the seventh; and Dorchester, Somerset, and Worcester Counties shall be the eighth; and there shall be elected, as hereinafter directed, for each of the said judicial circuits, except the fifth, one person from among those learned in the law, having been admitted to practise in this State, and who shall have been a citizen of this State at least five years, and above the age of thirty years at the time of his election, and a resident of the judicial circuit, to be judge thereof; the said judges shall be styled circuit judges, and shall respectively hold a term of their courts at least twice in each year, or oftener if required by law, in each county composing their respective circuits; and the said courts shall be called circuit courts for the county in which they may be held, and shall have and exercise in the several counties of this State all the power, authority, and jurisdiction which the county courts of this State now have and exercise, or which may hereafter be prescribed by law, and the said judges in their respective circuits shall have and exercise all the power, authority, and jurisdiction of the present court of chancery of Maryland: *Provided, nevertheless,* That Baltimore County court may hold its sittings within the limits of the city of Baltimore until provision shall be made by law for the location of a county-seat within the limits of the said county proper, and the erection of a court-house and all other appropriate buildings for the convenient administration of justice in said court.

SEC. 9. The judges of the several judicial circuits shall be citizens of the United States, and shall have resided five years in this State, and two years in the judicial circuit for which they may be respectively elected, next before the time of their election, and shall reside therein while they continue to act as judges; they shall be taken from among those who, having the other qualifications herein prescribed, are most distinguished for integrity, wisdom, and sound legal knowledge, and shall be

elected by the qualified voters of the said circuits, and shall hold their offices for the term of ten years, removable for misbehavior, on conviction in a court of law, or by the governor, upon the address of the general assembly, provided that two-thirds of the members of each house shall concur in such address; and the said judges shall each receive a salary of two thousand dollars a year, and the same shall not be increased or diminished during the time of their continuance in office; and no judge of any court in this State shall receive any perquisite, fee, commission, or reward, in addition thereto, for the performance of any judicial duty.

SEC. 10. There shall be established for the city of Baltimore one court of law, to be styled "the court of common pleas," which shall have civil jurisdiction in all suits where the debt or damage claimed shall be over one hundred dollars, and shall not exceed five hundred dollars; and shall also have jurisdiction in all cases of appeal from the judgment of justices of the peace in the said city, and shall have jurisdiction in all applications for the benefit of the insolvent laws of this State, and the supervision and control of the trustees thereof.

SEC. 11. There shall also be established for the city of Baltimore another court of law, to be styled the superior court of Baltimore City, which shall have jurisdiction over all suits where the debt or damage claimed shall exceed the sum of five hundred dollars; and in case any plaintiff or plaintiffs shall recover less than the sum or value of five hundred dollars, he or they shall be allowed or adjuged to pay costs in the discretion of the court. The said court shall also have jurisdiction as a court of equity within the limits of the said city, and in all other civil cases which have not been heretofore assigned to the court of common pleas.

SEC. 12. Each of the said two courts shall consist of one judge, who shall be elected by the legal and qualified voters of the said city, and shall hold his office for the term of ten years, subject to the provisions of this constitution with regard to the election and qualification of judges and their removal from office, and the salary of each of the said judges shall be twenty-five hundred dollars a year; and the legislature shall, whenever it may think the same proper and expedient, provide, by law, another court for the city of Baltimore, to consist of one judge, to be elected by the qualified voters of the said city, who shall be subject to the same constitutional provisions, hold his office for the same term of years, and receive the same compensation as the judge of the court of common pleas of the said city, and the said court shall have such jurisdiction and powers as may be prescribed by law.

SEC. 13. There shall also be a criminal court for the city of Baltimore, to be styled "the criminal court of Baltimore," which shall consist of one judge, who shall also be elected by the legal and qualified voters of the said city, and who shall have and exercise all the jurisdiction now exercised by Baltimore City court, and the said judge shall receive a salary of two thousand dollars a year, and shall be subject to the provisions of this constitution with regard to the election and qualifications of judges, term of office, and removal therefrom.

SEC. 14. There shall be in each county a clerk of the circuit court, who shall be elected by the qualified voters of each county, and the person receiving the greatest number of votes shall be declared and returned duly elected clerk of said circuit court for the said county, and shall hold his office for the term of six years from the time of his election, and until a new election is held; shall be reeligible thereto, and subject to removal for wilful neglect of duty, or other misdemeanor in office, on conviction in a court of law. There shall also be a clerk of the court of common pleas in Baltimore City, and a clerk of the superior court of Baltimore City, and there shall also be a clerk of the criminal court of Baltimore City, and each of said clerks shall be elected as aforesaid by the qualified voters of the city of Baltimore, and shall hold his office for six years from the time of his election, and until a new election is held, and be reëligible thereto, subject, in like manner, to be removed for wilful neglect of duty or other misdemeanor in office, on conviction in a court of law. In case of a vacancy in the office of a clerk, the judge or judges of the court of which he was clerk shall have the power to appoint a clerk until the general election of delegates held next thereafter, when a clerk shall be elected to fill such vacancy.

SEC. 15. The clerk of the court of common pleas for Baltimore City shall have

authority to issue within the said city all marriage and other licenses required by law, subject to such provisions as the legislature shall hereafter prescribe; and the clerk of the superior court for said city shall have the custody of all deeds, conveyances, and other papers now remaining in the office of the clerk of Baltimore County court, and shall hereafter receive and record all deeds, conveyances, and other papers which are required by law to be recorded in said city. He shall also have the custody of all other papers connected with the proceedings on the law or equity side of Baltimore County court, and of the dockets thereof, so far as the same have relation to Baltimore City.

SEC. 16. That the clerk of the court of appeals, and the clerks of the circuit courts in the several counties, shall respectively perform all the duties and be entitled to the fees which appertain to the offices of the clerks of court of appeals for the eastern and western shores and of the clerks of county courts, and the clerks of the court of common pleas, the superior court, and the criminal court for Baltimore City shall perform all the duties appertaining to their respective offices, and heretofore vested in the clerks of Baltimore County court and Baltimore City court respectively, and be entitled to all the fees now allowed by law; and all laws relating to the clerks of court of appeal, clerks of the several county courts, and Baltimore City court shall be applicable to the clerks respectively of the clerk of court of appeals, the circuit courts, the court of common pleas, the superior court, and the criminal court of Baltimore City, until otherwise provided by law; and the said clerks, when duly elected and qualified according to law, shall have the charge and custody of the records and other papers belonging to their respective offices.

SEC. 17. The qualified voters of the city of Baltimore, and of the several counties of the State, shall, on the first Wednesday of November, eighteen hundred and fifty-one, and on the same day of the same month in every fourth year forever thereafter, elect three men to be judges of the orphans' court of said city and counties respectively, who shall be citizens of the State of Maryland and citizens of the city or county for which they may be severally elected at the time of their election. They shall have all the powers now vested in the orphans' courts of this State, subject to such changes therein as the legislature may prescribe, and each of said judges shall be paid at a per diem rate for the time they are in session, to be fixed by the legislature and paid by the said counties and city respectively.

SEC. 18. There shall be a register of wills in each county of the State and in the city of Baltimore, to be elected by the legal and qualified voters of said counties and city respectively, who shall hold his office for six years from the time of his election, and until a new election shall take place, and be reëligible thereto, subject to be removed for wilful neglect of duty or misdemeanor in office, in the same manner that the clerks of the county courts are removable. In the event of any vacancy in the office of register of wills, said vacancy shall be filled by the judges of the orphans' court until the general election next thereafter for delegates to the general assembly, when a register shall be elected to fill such vacancy.

SEC. 19. The legislature at its first session after the adoption of this constitution shall fix the number of justices of the peace and constables for each ward of the city of Baltimore, and for each election district in the several counties, who shall be elected by the legal and qualified voters thereof respectively, at the next general election for delegates thereafter, and shall hold their offices for two years from the time of their election, and until their successors in office are elected and qualified; and the legislature may, from time to time, increase or diminish the number of justices of the peace and constables to be elected in the several wards and election districts as the wants and interests of the people may require. They shall be, by virtue of their offices, conservators of the peace in the said counties and city respectively, and shall have such duties and compensation as now exist or may be provided for by law. In the event of a vacancy in the office of a justice of the peace, the governor shall appoint a person to serve as justice of the peace, until the next regular election of said officers, and in case of a vacancy in the office of constable, the county commissioners of the county in which a vacancy may occur, or the mayor and city council of Baltimore, as the case may be, shall appoint a person to serve as consta-

ble until the next regular election thereafter for said officers. An appeal shall lie in all civil cases from the judgment of a justice of the peace to the circuit court, or to the court of common pleas of Baltimore City, as the case may be, and on all such appeals, either party shall be entitled to a trial by jury, according to the laws now existing, or which may be hereafter enacted. And the mayor and city council may provide, by ordinance, from time to time, for the creation and government of such temporary additional police as they may deem necessary to preserve the public peace.

SEC. 20. There shall be elected in each county and in the city of Baltimore, every second year, two persons for the office of sheriff for each county, and two for the said city, the one of whom having the highest number of votes of the qualified voters of said county or city, or if both have an equal number, either of them, at the discretion of the governor, to be commissioned by the governor for the said office, and, having served for two years, such person shall be ineligible for the two years next succeeding; bond with security, to be taken every year, and no sheriff shall be qualified to act before the same be given. In case of death, refusal, disqualification, or removal out of the county, before the expiration of the said two years, the other person chosen as aforesaid shall be commissioned by the governor to execute the said office for the residue of the said two years, and said person giving bond with security as aforesaid. No person shall be eligible to the office of sheriff but a resident of such county or city respectively, who shall have been a citizen of this State at least five years preceding his election, and above the age of twenty-one years. The two candidates, properly qualified, having the highest number of legal ballots, shall be declared duly elected for the office of sheriff for such county or city, and returned to the governor, with a certificate of the number of ballots for each of them.

SEC. 21. Coroners, elisors, and notaries public shall be appointed for each county and the city of Baltimore, in the manner now prescribed by law, or in such other manner as the general assembly may hereafter direct.

SEC. 22. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or where he shall have been of council in the case; and whenever any of the judges of the circuit courts, or of the courts for Baltimore City, shall be thus disqualified, or whenever, by reason of sickness, or any other cause, the said judges, or any of them, may be unable to sit in any cause, the parties may, by consent, appoint a proper person to try the said cause, or the judges, or any of them, shall do so when directed by law.

SEC. 23. The present chancellor and the register in chancery, and, in the event of any vacancy in their respective offices, their successors in office respectively, who are to be appointed as at present, by the governor and senate, shall continue in office, with the powers and compensation as at present established, until the expiration of two years after the adoption of this constitution by the people, and until the end of the session of the legislature next thereafter, after which the said offices of chancellor and register shall be abolished. The legislature shall, in the mean time, provide by law for the recording, safe-keeping, or other disposition of the records, decrees, and other proceedings of the court of chancery, and for the copying and attestation thereof, and for the custody and use of the great seal of the State, when required, after the expiration of the said two years, and for transmitting to the said counties, and to the city of Baltimore, all the cases and proceedings in said court then undisposed of and unfinished, in such manner and under such regulations as may be deemed necessary and proper: *Provided*, That no new business shall originate in the said court, nor shall any cause be removed to the same from any other court, from and after the ratification of this constitution.

SEC. 24. The first election of judges, clerks, registers of wills, and all other officers, whose election by the people is provided for in this article of the constitution, except justices of the peace and constables, shall take place throughout the State on the first Wednesday of November next after the ratification of this constitution by the people.

SEC. 25. In case of the death, resignation, removal, or other disqualification of a judge of any of the courts of law, the governor, by and with the advice and consent of the senate, shall thereupon appoint a person, duly qualified, to fill said office until

the next general election for delegates thereafter; at which time an election shall be held, as hereinbefore prescribed, for a judge, who shall hold the said office for ten years, according to the provisions of this constitution.

SEC. 26. In case of the death, resignation, removal, or other disqualification of the judge of an orphans' court, the vacancy shall be filled by the appointment of the governor, by and with the advice and consent of the senate.

SEC. 27. Whenever lands lie partly in one county and partly in another, or partly in a county and partly in the city of Baltimore, or whenever persons proper to be made defendants to proceedings in chancery reside some in one county and some in another, that court shall have jurisdiction in which proceedings shall have been first commenced, subject to such rules, regulations, and alterations as may be prescribed by law.

SEC. 28. In all suits or actions at law, issues from the orphans' court, or from any court sitting in equity, in petitions for freedom, and in all presentments and indictments now pending, or which may be pending at the time of the adoption of this constitution by the people, or which may be hereafter instituted in any of the courts of law of this State, having jurisdiction thereof, the judge or judges thereof, upon suggestion in writing, if made by the State's attorney, or the prosecutor for the State, or upon suggestion in writing, supported by affidavit, made by any of the parties thereto, or other proper evidence, that a fair and impartial trial cannot be had in the court where such suit or action at law, issues or petitions, or presentment and indictment is depending, shall order and direct the record of proceedings in such suit or action, issues or petitions, presentment or indictment, to be transmitted to the court of any adjoining county: *Provided*, That the removal in all civil causes be confined to an adjoining county within the judicial circuit, except as to the city of Baltimore, where the removal may be to an adjoining county for trial, which court shall hear and determine the same in like manner as if such suit or action, issues or petitions, presentment or indictment, had been originally instituted therein: *And provided also*, That such suggestion shall be made as aforesaid before or during the term in which the issue or issues may be joined in said suit or action, issues or petition, presentment or indictment, and that such further remedy in the premises may be provided by law as the legislature shall from time to time direct and enact.

SEC. 29. All elections of judges, and other officers provided for by this constitution, shall be certified, and the returns made by the clerks of the respective counties to the governor, who shall issue commissions to the different persons for the offices to which they shall have been respectively elected; and in all such elections the person having the greatest number of votes shall be declared to be elected.

SEC. 30. If in any case of election for judges, clerks of the courts of law, and registers of wills the opposing candidates shall have an equal number of votes, it shall be the duty of the governor to order a new election; and in case of any contested election, the governor shall send the returns to the house of delegates, who shall judge of the election and qualification of the candidates at such election.

SEC. 31. Every person of good moral character, being a voter, shall be admitted to practise law in all the courts of law in this State in his own case.

ARTICLE V.

THE STATE'S ATTORNEYS.

SECTION 1. There shall be an attorney for the State in each county and the city of Baltimore, to be styled "the State's attorney," who shall be elected by the voters thereof, respectively, on the first Wednesday of November next, and on the same day every fourth year thereafter, and hold his office for four years from the first Monday of January next ensuing his election, and until his successor shall be elected and qualified, and shall be reëligible thereto, and be subject to removal therefrom for incompetency, wilful neglect of duty, or misdemeanor in office, on conviction in a court of law.

SEC. 2. All elections for the State's attorney shall be certified to, and returns made thereof, by the clerks of the said counties and city to the judges thereof having crimi-



nal jurisdiction, respectively, whose duty it shall be to decide upon the elections and qualifications of the persons returned, and in case of a tie between two or more persons to designate which of said persons shall qualify as State's attorney, and to administer the oaths of office to the persons elected.

SEC. 3. The State's attorney shall perform such duties and receive such fees and commissions as are now prescribed by law for the attorney-general and his deputies, and such other duties, fees, and commissions as may hereafter be prescribed by law, and if any State's attorney shall receive any other fee or reward than such as is, or may be allowed by law, he shall, on conviction thereof, be removed from office.

SEC. 4. No person shall be eligible to the office of State's attorney who has not been admitted to practise the law in this State, and who has not resided for at least one year in the county or city in which he may be elected.

SEC. 5. In case of vacancy in the office of State's attorney, or of his removal from the county or city in which he shall have been elected, or on his conviction as hereinbefore specified, the said vacancy shall be filled by the judge of the county or city, respectively, having criminal jurisdiction, in which said vacancy shall occur, until the election and qualification of his successor, at which election said vacancy shall be filled by the voters of the said county or city for the residue of the term thus made vacant.

SEC. 6. It shall be the duty of the clerk of the court of appeals and the commissioner of the land-office, respectively, whenever a case shall be brought into said court or office in which the State is a party, or has an interest, immediately to notify the governor thereof.

ARTICLE VI.

TREASURY DEPARTMENT.

SECTION 1. There shall be a treasury department, consisting of a comptroller, chosen by the qualified electors of the State at each election of members of the house of delegates, who shall receive an annual salary of two thousand five hundred dollars; and of a treasurer, to be appointed by the two houses of the legislature, at each session thereof, on joint ballot, who shall also receive an annual salary of two thousand five hundred dollars; and neither of the said officers shall be allowed or receive any fees, commissions, or perquisites of any kind, in addition to his salary, for the performance of any duty or service whatever. In case of a vacancy in either of the offices, by death or otherwise, the governor, by and with the advice and consent of the senate, shall fill such vacancy by appointment, to continue until another election by the people or a choice by the legislature, as the case may be, and the qualification of the successor. The comptroller and the treasurer shall keep their offices at the seat of government, and shall take such oath and enter into such bonds for the faithful discharge of their duties as the legislature shall prescribe.

SEC. 2. The comptroller shall have the general superintendence of the fiscal affairs of the State; he shall digest and prepare plans for the improvement and management of the revenue and for the support of the public credit; prepare and report estimates of the revenue and expenditure of the State; superintend and enforce the collection of all taxes and revenue; adjust, settle, and preserve all public accounts; decide on the forms of keeping and stating accounts; grant, under regulations prescribed by law, all warrants for moneys to be paid out of the treasury, in pursuance of appropriations by law; prescribe the formalities of the transfer of stock or other evidences of the State debt; and countersign the same, without which such evidences shall not be valid; he shall make full reports of all his proceedings, and of the state of the treasury department, within ten days after the commencement of each session of the legislature, and perform such other duties as shall be prescribed by law.

SEC. 3. The treasurer shall receive and keep the moneys of the State, and disburse the same upon warrants drawn by the comptroller, and not otherwise; he shall take receipts for all moneys paid by him, and all receipts for moneys received by him shall be indorsed upon warrants signed by the comptroller, without which warrant, so signed, no acknowledgment of money received into the treasury shall be valid; and upon warrants issued by the comptroller he shall make arrangements for the payment

of the interest of the public debt, and for the purchase thereof, on account of the sinking-fund. Every bond, certificate, or other evidence of the debt of the State, shall be signed by the treasurer and countersigned by the comptroller, and no new certificate or other evidence intended to replace another shall be issued until the old one shall be delivered to the treasurer, and authority executed in due form for the transfer of the same shall be filed in his office, and the transfer accordingly made on the books thereof, and the certificate or other evidence cancelled; but the legislature may make provision for the loss of certificates or other evidence of the debt

SEC. 4. The treasurer shall render his accounts quarterly to the comptroller; and on the third day of each session of the legislature he shall submit to the senate and house of delegates fair and accurate copies of all accounts by him from time to time rendered and settled with the comptroller. He shall at all times submit to the comptroller the inspection of the moneys in his hands, and perform all other duties that shall be prescribed by law.

ARTICLE VII.

SUNDRY OFFICERS.

SECTION 1. At the first general election of delegates to the general assembly, after the adoption of this constitution, four commissioners shall be elected as hereinafter provided, who shall be styled " commissioners of public works," and who shall exercise a diligent and faithful supervision of all public works, in which the State may be interested as stockholder or creditor, and shall represent the State in all meetings of the stockholders, and shall appoint the directors in every railroad or canal company in which the State has the constitutional power to appoint directors. It shall also be the duty of the commissioners of public works to review, from time to time, the rate of tolls adopted by any company; use all legal powers which they may possess to obtain the establishment of rates of toll, which may prevent an injurious competition with each other, to the detriment of the interests of the State; and so to adjust them as to promote the agriculture of the State. It shall also be the duty of the said commissioners of public works to keep a journal of their proceedings; and at each regular session of the legislature to make to it a report, and to recommend such legislation as they shall deem necessary and requisite to promote or protect the interest of the State in the public works; and perform such other duties as may be prescribed by law. They shall each receive such salary as may be allowed by law, which shall not be increased or diminished during their continuance in office.

SEC. 2. For the election of the commissioners of public works, the State shall be divided into four districts. The counties of Alleghany, Washington, Frederick, Carroll, Baltimore, and Harford shall constitute the first district; the counties of Montgomery, Howard, Anne Arundel, Calvert, Saint Mary's, Charles, and Prince George's shall constitute the second district; Baltimore City shall constitute the third district; the counties of Cecil, Kent, Queen Anne's, Talbot, Caroline, Dorchester, Somerset, and Worcester shall constitute the fourth district. One commissioner shall be elected in each district, who shall have been a resident thereof at least five years next preceding his election.

SEC. 3. The said commissioners shall be elected by the qualified voters of their districts respectively; the returns of their election shall be certified to the governor, who shall, by proclamation, declare the result of the election. Two of the said commissioners first elected shall hold their office for four years, and the other two for two years from the first Monday of December next succeeding their election. And at the first meeting after their election, or as soon thereafter as practicable, they shall determine by lot who of their number shall hold their offices for four and two years respectively; and thereafter there shall be elected as aforesaid, at each general election of delegates, two commissioners for the term of four years, to be taken from the districts respectively wherein the commissioners resided at the time of their election, whose term of service has expired. And in case of a vacancy in the office of either of said commissioners, by death, resignation, or otherwise, the governor, by and with the advice and consent of the senate, shall appoint some qualified person from the same district, to serve until the next general election of delegates, when an election



shall be held, as aforesaid, for a commissioner for the residue of said term. And in case of an equal division in the board of commissioners, on any subject committed to their charge, the treasurer of the State shall have power, and shall be called on to decide the same. And in the event of a tie vote for any two of the candidates for the office of commissioner in the same district, it shall be the duty of the governor to commission one or the other of the candidates having the equal number of votes. And if the governor doubt the legality or result of any election held for said commissioners, it shall be his duty to send the returns of such election to the house of delegates, who shall judge of the election and qualification of the candidates at such election.

SEC. 4. During the continuance of the lottery system in this State, there shall be elected by the legal and qualified voters of the State, at every general election for delegates to the general assembly, one commissioner of lotteries, who shall hold his office for two years, and till the qualification of his successor, and shall be reëligible. His whole compensation shall be paid out of the fund raised for the Maryland consolidated lottery-grants, and shall not exceed the amount of commissions received by one of the present lottery commissioners, out of said fund; and he shall give such bond, for the faithful performance of his duties, as is now given by the lottery commissioners. The term of the commissioner, who shall be elected at the general election for delegates next succeeding the adoption of this constitution, shall commence at the expiration of the commissions of the present lottery commissioners, and continue for two years, and till the qualification of his successor.

SEC. 5. From and after the first day of April, eighteen hundred and fifty-nine, no lottery scheme shall be drawn, for any purpose whatever, nor shall any lottery-ticket be sold in this State; and it shall be the duty of the several commissioners elected under this constitution to make such contract or contracts as will extinguish all existing lottery-grants before the said first day of April, eighteen hundred and fifty-nine, and also secure to the State a clear yearly revenue equal to the average amount derived by the State from the system for the last five years; but no such contract or contracts shall be valid until approved by the treasurer and comptroller.

SEC. 6. There shall be a commissioner of the land-office elected by the qualified voters of the State, at the first general election of delegates to the assembly after the ratification of this constitution, who shall hold his office for the term of six years from the first day of January next after his election. The returns of said election shall be made to the governor, and in the event of a tie between any two or more candidates, the governor shall direct a new election to be held by writs to the several sheriffs, who shall hold said election after at least twenty days' notice, exclusive of the day of election. The said commissioner shall sit as judge of the land-office, and receive therefor the sum of two hundred dollars per annum, to be paid out of the State treasury. He shall also perform the duties of the register of the land-office, and be entitled to receive therefor the fees now chargeable in said office; and he shall also perform the duties of examiner-general, and be entitled to receive therefor the fees now chargeable by said officer. The office of register of the land-office and examiner-general shall be abolished from and after the election and qualification of the commissioner of the land-office.

SEC. 7. The State librarian shall be elected by the joint vote of the two branches of the legislature, for two years, and until his successor shall be elected and qualified. His salary shall be one thousand dollars per annum. He shall perform such duties as are now or may hereafter be prescribed by law.

SEC. 8. The county authorities now known as levy courts or county commissioners, shall hereafter be styled "county commissioners," and shall be elected by general ticket, and not by districts, by the voters of the several counties, on the first Wednesday in November, one thousand eight hundred and fifty-one, and on the same day in every second year thereafter. Said commissioners shall exercise such powers and duties only as the legislature may from time to time prescribe; but such powers and duties and the tenure of office shall be uniform throughout the State, and the legislature shall, at or before its second regular session, after the adoption of this constitution, pass such laws as may be necessary for determining the number for each county,

and ascertaining and defining the powers, duties, and tenure of office of said commissioners; and until the passage of such laws the commissioners elected under this constitution shall have and exercise all the powers and duties in their respective counties, now exercised by the county authorities under the laws of the State.

SEC. 9. The general assembly shall provide by law for the election of road supervisors, in the several counties, by the voters of the election-districts respectively, and may provide by law for the election or appointment of such other county officers as may be required and are not herein provided for, and prescribe their powers and duties; but the tenure of office, their powers and duties, and mode of appointment, shall be uniform throughout the State.

SEC. 10. The qualified voters of each county, and the city of Baltimore, shall, at the first election of delegates after the adoption of this constitution, and every two years thereafter, elect a surveyor for the counties, and the city of Baltimore, respectively, whose duties and compensation shall be the same as are now prescribed by law for the county and city surveyors, respectively, or as may hereafter be prescribed by law. The term of office of said county and city surveyors, respectively, shall commence on the first Monday of January next succeeding their election. And vacancies in said office of surveyors, by death, resignation, or removal from their respective counties or city, shall be filled by the commissioners of the counties, or mayor and city council of Baltimore, respectively.

SEC. 11. The qualified voters of Worcester County shall, at the first election of delegates after the adoption of this constitution, and every two years thereafter, elect a wreck-master for the said county, whose duties and compensation shall be the same as are now prescribed or may be hereafter prescribed by law. The term of office of said wreck-master shall commence on the first Monday of January next succeeding his election; and a vacancy in said office, by death, resignation, or removal from the county, shall be filled by the county commissioners of said county, for the residue of the term thus made vacant.

ARTICLE VIII.

NEW COUNTIES.

SECTION 1. That part of Anne Arundel County called Howard district is hereby erected into a new county, to be called Howard County, the inhabitants whereof shall have, hold, and enjoy all such rights and privileges as are held and enjoyed by the inhabitants of the other counties in this State; and its civil and municipal officers, at the time of the ratification of this constitution, shall continue in office until their successors shall have been elected or appointed, and shall have qualified as such; and all rights, powers, and obligations incident to Howard district of Anne Arundel County shall attach to Howard County.

SEC. 2. When that part of Alleghany County lying south and west of a line beginning at the summit of Big Back Bone or Savage Mountain, where that mountain is crossed by Mason and Dixon's line, and running thence by a straight line to the middle of Savage River where it empties into the Potomac River, thence by a straight line to the nearest point or boundary of the State of Virginia, then with said boundary to the Fairfax stone, shall contain a population of ten thousand, and the majority of electors thereof shall desire to separate and form a new county, and make known their desire by petition to the legislature, the legislature shall direct, at the next succeeding election, that the judges shall open a book at each election-district in said part of Alleghany County, and have recorded therein the vote of each elector "for or against" a new county. In case the majority are in favor, then said part of Alleghany County to be declared an independent county, and the inhabitants whereof shall have and enjoy all such rights and privileges as are held and enjoyed by the inhabitants of the other counties in this State: *Provided*, That the whole representation in the returns of every census of the United States, hereafter taken, to pass a law for the general assembly of the county, when divided, shall not exceed the present delegation of Alleghany County, allowed under this constitution, until after the next census.

ARTICLE IX.

MILITIA.

SECTION 1. It shall be the duty of the legislature to pass laws for the enrolment of the militia; to provide for districting the State into divisions, brigades, battalions, regiments, and companies, and to pass laws for the effectual encouragement of volunteer corps by some mode which may induce the formation and continuance of at least one volunteer company in every county and division in the city of Baltimore. The company, battalion, and regimental officers (staff-officers excepted) shall be elected by the persons composing their several companies, battalions, and regiments.

SEC. 2. The adjutant-general shall be appointed by the governor, by and with the advice and consent of the senate. He shall hold his office for the term of six years, and receive the same salary as heretofore, until changed by the legislature.

ARTICLE X.

MISCELLANEOUS.

SECTION 1. Every officer of this State, the governor excepted, the entire amount of whose pay or compensation received for the discharge of his official duties shall exceed the yearly sum of three thousand dollars, shall keep a book, in which shall be entered every sum or sums of money received by him or on his account as a payment or compensation for his performance of official duties, a copy of which entries in said book, verified by the oath of the officer by whom it is directed to be kept, shall be returned yearly to the treasurer of the State for his inspection and that of the general assembly of Maryland; and each of such officers, when the amount received by him for the year shall exceed the sum of three thousand dollars, shall yearly pay over to the treasurer the amount of such excess by him received, subject to such disposition thereof as the legislature may deem just and equitable. And any such officer failing to comply with the said requisition shall be deemed to have vacated his office, and be subject to suit by the State for the amount that ought to have been paid into the treasury.

SEC. 2. The legislature shall have power to pass all such laws as may be necessary and proper for carrying into execution the powers vested by this constitution in any department or office of the government, and the duties imposed upon them thereby.

SEC. 3. If in any election directed by this constitution any two or more candidates shall have the highest and an equal number of votes, a new election shall be ordered, unless in cases specially provided for by the constitution.

SEC. 4. The trial by jury of all issues of fact in civil proceedings, in the several courts of law in this State, where the amount in controversy exceeds the sum of five dollars, shall be inviolably preserved.

SEC. 5. In the trial of all criminal cases the jury shall be the judges of law as well as fact.

SEC. 6. The legislature shall have power to regulate by law all matters which relate to the judges, time, place, and manner of holding elections in this State, and of making returns thereof: *Provided*, That the tenure and term of office, and the day of election, shall not be affected thereby.

SEC. 7. All rights vested, and all liabilities incurred, shall remain as if this constitution had not been adopted.

SEC. 8. The governor and all officers, civil and military, now holding commissions under this State, shall continue to hold and exercise their offices, according to their present tenure, until they shall be superseded, pursuant to the provisions of this constitution, and until their successors be duly qualified.

SEC. 9. The sheriffs of the several counties of this State, and of the city of Baltimore, shall give notice of the several elections authorized by this constitution, in the manner prescribed by existing laws for elections under the present constitution.

SEC. 10. This constitution, if adopted by a majority of the legal votes cast on the first Wednesday of June next, shall go into operation on the fourth day of July next, and on and after said day shall supersede the present constitution of this State.

ARTICLE XI.

AMENDMENT OF THE CONSTITUTION.

It shall be the duty of the legislature, at its first session immediately succeeding ascertaining, at the next general election of delegates, the sense of the people of Maryland in regard to the calling a convention for altering the constitution; and in case the majority of votes cast at said election shall be in favor of calling a convention, the legislature shall provide for assembling such convention, and electing delegates thereto at the earliest convenient day; and the delegates to the said convention shall be elected by the several counties of the State and the city of Baltimore, in proportion to their representation respectively in the senate and house of delegates at the time when said convention may be called.

Done in convention, the 13th day of May, in the year of our Lord one thousand eight hundred and fifty-one, and of the Independence of the United States the seventy-fifth.

J. G. CHAPMAN, *President.*

GEORGE G. BREWER, *Secretary.*

CONSTITUTION OF MARYLAND—1864.*

DECLARATION OF RIGHTS.

We, the people of the State of Maryland, grateful to Almighty God for our civil and religious liberty, and taking into our serious consideration the best means of establishing a good constitution in this State, for the sure foundation and more permanent security thereof, declare:

ARTICLE 1. That we hold it to be self-evident that all men are created equally free; that they are endowed by their Creator with certain unalienable rights, among which are life, liberty, the enjoyment of the proceeds of their own labor, and the pursuit of happiness.

ART. 2. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole; and they have at all times the unalienable right to alter, reform, or abolish their form of government in such manner as they may deem expedient.

ART. 3. That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.

ART. 4. That the inhabitants of Maryland are entitled to the common law of England, and the trial by jury according to the course of that law, and to the benefit of such of the English statutes as existed on the fourth day of July, seventeen hundred and seventy-six, and which, by experience, have been found applicable to their local and other circumstances, and have been introduced, used, and practised by the courts of law or equity, and also of all acts of assembly in force on the first day of June, eighteen hundred and sixty-four, except such as may have since expired or may be inconsistent with the provisions of this constitution, subject, nevertheless, to the revision of and amendment or repeal by the legislature of this State; and the inhabitants of Maryland are also entitled to all property derived to them from or under the charter granted by His Majesty Charles the First to Cecillus Calvert, Baron of Baltimore.

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* This constitution was framed by a convention which met at Annapolis April 27, 1864, and completed its labors September 6, 1864. It was submitted to the people, and ratified October 12 and 13, 1864, by the following vote: Home vote, 27,541 for, 29,536 against, and 61 blank: Soldiers' vote, 2,633 for, and 263 against; majority in favor of ratification, 375.

ART. 5. The Constitution of the United States and the laws made in pursuance thereof being the supreme law of the land, every citizen of this State owes paramount allegiance to the Constitution and Government of the United States, and is not bound by any law or ordinance of this State in contravention or subversion thereof.

ART. 6. That all persons invested with the legislative or executive powers of government are the trustees of the public, and as such accountable for their conduct; wherefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may and of right ought to reform the old or establish a new government. The doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

ART. 7. That the right of the people to participate in the legislature is the best security of liberty and the foundation of all free government; for this purpose elections ought to be free and frequent, and every free white male citizen, having the qualifications prescribed by the constitution, ought to have the right of suffrage.

ART. 8. That the legislative, executive, and judicial powers of government ought to be forever separate and distinct from each other, and no person exercising the functions of one of said departments shall assume or discharge the duties of any other.

ART. 9. That no power of suspending laws or the execution of laws, unless by or derived from the legislature, ought to be exercised or allowed.

ART. 10. That freedom of speech and debate, or proceedings in the legislature, ought not to be impeached in any court of judicature.

ART. 11. That Annapolis be the place for the meeting of the legislature, and the legislature ought not to be convened or held at any other place but for evident necessity.

ART. 12. That for the redress of grievances, and for amending, strengthening, and preserving the laws, the legislature ought to be frequently convened.

ART. 13. That every man hath a right to petition the legislature for the redress of grievances, in a peaceable and orderly manner.

ART. 14. That no aid, charge, tax, burden, or fees ought to be rated or levied, under any pretence, without the consent of the legislature.

ART. 15. That the levying of taxes by the poll is grievous and oppressive, and ought to be prohibited; that paupers ought not to be assessed for the support of the government, but every other person in the State, or persons holding property therein, ought to contribute his proportion of public taxes for the support of government, according to his actual worth in real or personal property; yet fines, duties, or taxes may properly and justly be imposed or laid, with a political view, for the good government and benefit of the community.

ART. 16. That sanguinary laws ought to be avoided as far as it is consistent with the safety of the State; and no law to inflict cruel and unusual pains and penalties ought to be made in any case, or at any time hereafter.

ART. 17. That retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; wherefore no *ex post facto* law ought to be made.

ART. 18. That no law to attaint particular persons of treason or felony ought to be made in any case, or at any time hereafter.

ART. 19. That every man, for any injury done to him in his person or property, ought to have remedy by the course of the law of the land, and ought to have justice and right freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

ART. 20. That the trial of facts where they arise is one of the greatest securities of the lives, liberties, and estate of the people.

ART. 21. That in all criminal prosecutions every man hath a right to be informed of the accusation against him; to have a copy of the indictment or charge in due time (if required) to prepare for his defence; to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

ART. 22. That no man ought to be compelled to give evidence against himself in a criminal case.

ART. 23. That no man ought to be taken or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the judgment of his peers, or by the law of the land.

ART. 24. That hereafter, in this State, there shall be neither slavery nor involuntary servitude, except in punishment of crime, whereof the party shall have been duly convicted; and all persons held to service or labor as slaves are hereby declared free.

ART. 25. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted, by the courts of law.

ART. 26. That all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.

ART. 27. That no conviction shall work corruption of blood, nor shall there be any forfeiture of the estate of any person for any crime, except treason, and then only on conviction.

ART. 28. That a well-regulated militia is the proper and natural defence of a free government.

ART. 29. That standing armies are dangerous to liberty, and ought not to be raised or kept up without the consent of the legislature.

ART. 30. That in all cases, and at all times, the military ought to be under strict subordination to and control of the civil power.

ART. 31. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

ART. 32. That no person, except regular soldiers, mariners, and marines, in the service of this State, or militia when in actual service, ought in any case to be subject to, or punishable by, martial law.

ART. 33. That the independency and uprightness of judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people; wherefore the judges shall not be removed, except for misbehavior, or conviction in a court of law, or by the governor, upon the address of the general assembly: *Provided*, That two-thirds of all the members of each house concur in such address. No judge shall hold any other office, civil or military, or political trust or employment of any kind whatsoever, under the constitution or laws of this State, or of the United States, or any of them, or receive fees or perquisites of any kind for the discharge of his official duties.

ART. 34. That a long continuance in the executive departments of power or trust is dangerous to liberty; a rotation, therefore, in those departments is one of the best securities of permanent freedom.

ART. 35. That no person ought to hold at the same time more than one office of profit created by the constitution or laws of this State; nor ought any person in public trust to receive any present from any foreign prince, or state, or from the United States, or any of them, without the approbation of this State.

ART. 36. That, as it is the duty of every man to worship God in such manner as he thinks most acceptable to Him, all persons are equally entitled to protection in their religious liberty; wherefore, no person ought, by any law, to be molested in his person or estate on account of his religious persuasion or profession, or for his religious practice, unless under the color of religion any man shall disturb the good order, peace, or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil, or religious rights; nor ought any person to be compelled to frequent or maintain, or contribute, unless on contract, to maintain any place of worship or any ministry; nor shall any person be deemed incompetent as a witness or juror who believes in the existence of a God, and that under His dispensation such person will

be held morally accountable for his acts, and be rewarded or punished therefor, either in this world or the world to come.

ART. 37. That no other test or qualification ought to be required on admission to any office of trust or profit than such oath of allegiance and fidelity to this State and the United States as may be prescribed by this constitution, and such oath of office and qualification as may be prescribed by this constitution, or by the laws of the State, and a declaration of belief in the Christian religion, or in the existence of God, and in a future state of rewards and punishments.

ART. 38. That every gift, sale, or devise of land, to any minister, public teacher, or preacher of the gospel, as such, or to any religious sect, order, or denomination, or to or for the support, use, or benefit of, or in trust for any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination; and every gift or sale of goods or chattels to go in succession, or to take place after the death of the seller or donor, to or for such support, use, or benefit; and also every devise of goods or chattels, to or for the support, use, or benefit of any minister, public teacher, or preacher of the gospel, as such; or any religious sect, order, or denomination, without the prior or subsequent sanction of the legislature, shall be void; except always any sale, gift, lease, or devise of any quantity of land, not exceeding five acres, for a church, meeting-house, or other house of worship, or parsonage, or for a burying-ground, which shall be improved, enjoyed, or used only for such purpose, or such sale, gift, lease, or devise shall be void.

ART. 39. That the manner of administering an oath or affirmation to any person ought to be such as those of the religious persuasion, profession, or denomination of which he is a member generally esteem the most effectual confirmation by the attestation of the Divine Being.

ART. 40. That the liberty of the press ought to be inviolably preserved; that every citizen of the State ought to be allowed to speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

ART. 41. That monopolies are odious, contrary to the spirit of a free government and the principles of commerce, and ought not to be suffered.

ART. 42. That no title of nobility or hereditary honors ought to be granted in this State.

ART. 43. That the legislature ought to encourage the diffusion of knowledge and virtue, the extension of a judicious system of general education, the promotion of literature, the arts, science, agriculture, commerce, and manufactures, and the general melioration of the condition of the people.

ART. 44. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ART. 45. That the legislature shall pass no law providing for an alteration, change, or abolishment of this constitution, except in the manner therein prescribed and directed.

ARTICLE I.

ELECTIVE FRANCHISE.

SECTION 1. All elections shall be by ballot, and every white male citizen of the United States, of the age of twenty-one years or upwards, who shall have resided in the State one year next preceding the election, and six months in any county, or in any legislative district of Baltimore City, and who shall comply with the provisions of this article of the constitution, shall be entitled to vote at all elections hereafter held in this State; and in case any county or city shall be so divided as to form portions of different electoral districts for the election of Congressmen, senator, delegate, or other officer or officers, then to entitle a person to vote for such officer he must have been a resident of that part of the county or city which shall form a part of the electoral district in which he offers to vote for six months next preceding the election; but a person who shall have acquired a residence in such county or city entitling him to vote at any such election shall be entitled to vote in the election-district from which he removed, until he shall have acquired a residence in the part of the county or city to which he has removed.

SEC. 2. The general assembly shall provide by law for a uniform registration of the names of voters in this State, which registration shall be evidence of the qualification of said voters to vote at any election thereafter held, but no person shall be excluded from voting at any election on account of not being registered until the general assembly shall have passed an act of registration, and the same shall have been carried into effect, after which no person shall vote unless his name appears on the register. The general assembly shall also provide by law for taking the votes of soldiers in the Army of the United States serving in the field.

SEC. 3. No person above the age of twenty-one years, convicted of larceny or other infamous crime, unless pardoned by the governor, shall ever thereafter be entitled to vote at any election in this State, and no lunatic, or person *non compos mentis*, shall be entitled to vote.

SEC. 4. No person who has at any time been in armed hostility to the United States, or the lawful authorities thereof, or who has been in any manner in the service of the so-called Confederate States of America, and no person who has voluntarily left this State and gone within the military lines of the so-called Confederate States or armies, with the purpose of adhering to said States or armies, and no person who has given any aid, comfort, countenance, or support to those engaged in armed hostility to the United States, or in any manner adhered to the enemies of the United States, either by contributing to the enemies of the United States, or unlawfully sending within the lines of such enemies money, or goods, or letters, or information, or who has disloyally held communication with the enemies of the United States, or who has advised any person to enter the service of the said enemies, or aided any person so to enter, or who has by any open deed or word declared his adhesion to the cause of the enemies of the United States, or his desire for the triumph of said enemies over the arms of the United States, shall ever be entitled to vote at any election to be held in this State, or to hold any office of honor, profit, or trust under the laws of this State, unless since such unlawful acts he shall have voluntarily entered into the military service of the United States, and been honorably discharged therefrom, or shall be on the day of election actually and voluntarily in such service, or unless he shall be restored to his full rights of citizenship by an act of the general assembly passed by a vote of two-thirds of all the members elected to each house; and it shall be the duty of all officers of registration and judges of election carefully to exclude from voting, or being registered, all persons so as above disqualified; and the judges of election at the first election held under this constitution shall, and at any subsequent election may, administer to any person offering to vote the following oath or affirmation: "I do swear [or affirm] that I am a citizen of the United States; that I have never given any aid, countenance, or support to those in armed hostility to the United States; that I have never expressed a desire for the triumph of said enemies over the arms of the United States; and that I will bear true faith and allegiance to the United States and support the Constitution and laws thereof as the supreme law of the land, any law or any ordinance of any State to the contrary notwithstanding; that I will in all respects demean myself as a loyal citizen of the United States, and I make this oath or affirmation without any reservation or evasion, and believe it to be binding on me;" and any person declining to take such oath shall not be allowed to vote, but the taking of such oath shall not be deemed conclusive evidence of the right of such person to vote; and any person swearing or affirming falsely shall be liable to penalties of perjury, and it shall be the duty of the proper officers of registration to allow no person to be registered until he shall have taken the oath or affirmation above set out, and it shall be the duty of the judges of election in all their returns of the first election held under this constitution to state in their said returns that every person who has voted has taken such oath or affirmation. But the provisions of this section in relation to acts against the United States shall not apply to any person not a citizen of the United States who shall have committed such acts while in the service of some foreign country at war against the United States, and who has, since such acts, been naturalized, or may be naturalized, under the laws of the United States, and the oath above set forth shall be taken in the case of such persons in such sense.

SEC. 5. If any person shall give, or offer to give, directly or indirectly, or hath given, or offered to give, since the fourth day of July, eighteen hundred and fifty-one, any bribe, present, or reward, or any promise, or any security for the payment or delivery of money or any other thing to induce any voter to refrain from casting his vote, or forcibly to prevent him in any way from voting, or to procure a vote, for any candidate or person proposed or voted for as elector of President and Vice-President of the United States or Representative in Congress, or for any office of profit or trust created by the constitution or laws of this State, or by the ordinances or authority of the mayor and city council of Baltimore, the person giving, or offering to give, and the person receiving the same, and any person who gives, or causes to be given, an illegal vote, knowing it to be such, at any election to be hereafter held in this State, or who shall be guilty of or accessory to any fraud, force, surprise, or bribery to procure himself or any other person to be nominated to any office, national, State, or municipal, shall, on conviction in a court of law, in addition to the penalties now or hereafter to be imposed by law, be forever disqualified to hold any office of profit or trust, or to vote at any election thereafter.

SEC. 6. It shall be the duty of the general assembly to pass laws to punish with fine and imprisonment any person who shall remove into any election district or precinct of any ward of the city of Baltimore, not for the purpose of acquiring a *bona-fide* residence therein, but for the purpose of voting at an approaching election, or who shall vote in any election-district or ward in which he does not reside, (except in the case provided for in this article,) or shall at the same election vote in more than one election district or precinct, or shall vote or offer to vote in any name not his own, or in place of any other person of the same name, or shall vote in any county in which he does not reside.

SEC. 7. Every person elected or appointed to any office of trust or profit under this constitution, or under the laws made pursuant thereto, before he shall enter upon the duties of such office, shall take and subscribe the following oath or affirmation: "I, ———, do swear [or affirm, as the case may be] that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of ——— according to the constitution and laws of this State, and that since the fourth day of July, in the year eighteen hundred and fifty-one, I have not in any manner violated the provisions of the present or of the late constitution in relation to the bribery of voters, or preventing legal votes or procuring illegal votes to be given, and [if a governor, senator, member of the house of delegates, or judge] that I will not, directly or indirectly, receive the profits or any part of the profits of any other office during the term of my acting as ———. I do further swear [or affirm] that I will bear true allegiance to the State of Maryland and support the constitution and laws thereof, and that I will bear true allegiance to the United States, and support, protect, and defend the Constitution, laws, and Government thereof as the supreme law of the land, any law or ordinance of this or any State to the contrary notwithstanding; that I have never directly or indirectly, by word, act, or deed, given any aid, comfort, or encouragement to those in rebellion against the United States or the lawful authorities thereof, but that I have been truly and loyally on the side of the United States against those in armed rebellion against the United States; and I do further swear [or affirm] that I will, to the best of my abilities, protect and defend the Union of the United States, and not allow the same to be broken up and dissolved or the Government thereof to be destroyed under any circumstances, if in my power to prevent it, and that I will at all times discountenance and oppose all political combinations having for their object such dissolution or destruction."

SEC. 8. Every person holding any office of trust or profit under the late constitution or under any law of this State, and who shall be continued in office under this constitution or under any law of the State, shall, within thirty days after this constitution shall have gone into effect, take and prescribe the oath or affirmation set forth in the seventh section of this article, and if any such person shall fail to take said oath, his office shall be *ipso facto* vacant. And every person hereafter elected or appointed to office in this State who shall refuse or neglect to take the oath or affirmation of office pro-

vided for in the said seventh section of this article shall be considered as having refused to accept the said office, and a new election or appointment shall be made as in case of refusal to accept or resignation of an office. And any person swearing or affirming falsely in the premises shall, on conviction thereof in a court of law, incur the penalties for wilful and corrupt perjury, and thereafter shall be incapable of holding any office of profit or trust in this State.

ARTICLE II.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive power of the State shall be vested in a governor, whose term of office shall commence on the second Wednesday of January next ensuing his election, and continue for four years, and until his successor shall have qualified, but the governor chosen at the first election under this constitution shall not enter upon the discharge of the duties of the office until the expiration of the term for which the present incumbent was elected, unless the said office shall become vacant by death, resignation, removal from the State, or other disqualification of said incumbent.

SEC. 2. An election for governor under this constitution shall be held on the Tuesday next after the first Monday in November, in the year eighteen hundred and sixty-four, and on the same day and month in every fourth year thereafter, at the place of voting for delegates to the general assembly, and every person qualified to vote for delegates shall be qualified and entitled to vote for governor; the election to be held in the same manner as the election of delegates, and the returns thereof, under seal, to be addressed to the speaker of the house of delegates, and inclosed and transmitted to the secretary of state, and delivered to the said speaker at the commencement of the session of the general assembly next ensuing said election.

SEC. 3. The speaker of the house of delegates shall then open the said returns in the presence of both houses, and the person having the highest number of votes, and being constitutionally eligible, shall be the governor, and shall qualify in the manner herein prescribed, on the second Wednesday of January next ensuing his election, or as soon thereafter as may be practicable.

SEC. 4. If two or more persons shall have the highest and an equal number of votes, one of them shall be chosen governor by the senate and house of delegates; and all questions in relation to the eligibility of governor, and to the returns of said election, and to the number and legality of votes therein given, shall be determined by the house of delegates; and if the person or persons having the highest number of votes be ineligible, the governor shall be chosen by the senate and house of delegates. Every election of governor by the general assembly shall be determined by a joint majority of the senate and house of delegates, and the vote shall be taken *viva voce*. But if two or more persons shall have the highest and an equal number of votes, then a second vote shall be taken, which shall be confined to the persons having an equal number; and if the votes should be again equal, then the election of governor shall be determined by lot between those who shall have the highest and an equal number on the first vote.

SEC. 5. A person to be eligible to the office of governor must have attained the age of thirty years, and must have been for five years a citizen of the United States, and for five years next preceding his election a resident of the State.

SEC. 6. A lieutenant-governor shall be chosen at every regular election for governor. He shall continue in office for the same time, shall be elected in the same manner, and shall possess the same qualifications as the governor. In voting for governor and lieutenant-governor, the electors shall state for whom they vote as governor, and for whom as lieutenant-governor.

SEC. 7. The lieutenant-governor shall, by virtue of his office, be president of the senate, and whenever the senate are equally divided, shall have the right to give the casting vote.

SEC. 8. In case of the death, resignation, removal from the State, or other disqualification of the governor, the powers, duties, and emoluments of the office shall devolve upon the lieutenant-governor; and in case of his death, resignation, removal,

or other disqualification, then upon the president of the senate for the time being, until the disqualification or inability shall cease, or until a new governor shall be elected and qualified; and for any vacancy in said office not herein provided for, provision may be made by law, and if such vacancy should occur without such provision being made, the general assembly shall be convened by the secretary of state for the purpose of filling said vacancy.

SEC. 9. Whenever the office of governor shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senate shall elect one of its own members as president *pro tempore*.

SEC. 10. The lieutenant-governor, while he acts as president of the senate, shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of delegates, and no more.

SEC. 11. The governor shall be commander-in-chief of the land and naval forces of the State, and may call out the militia to repel invasions, suppress insurrections, and enforce the execution of the laws; but shall not take the command in person without the consent of the general assembly.

SEC. 12. He shall take care that the laws be faithfully executed.

SEC. 13. He shall nominate and, by and with the advice and consent of the senate, appoint all civil and military officers of the State, whose appointment or election is not otherwise herein provided for, unless a different mode of appointment be prescribed by the law creating the office.

SEC. 14. In case of a vacancy, during the recess of the senate, in any office which the governor has power to fill, he shall appoint some suitable person to said office, whose commission shall continue in force till the end of the next session of the general assembly, or till some other person is appointed to the same office, whichever shall first occur, and the nomination of the person thus appointed during the recess, or of some other person in his place, shall be made to the senate within thirty days after the next meeting of the general assembly.

SEC. 15. No person after being rejected by the senate shall be again nominated for the same office at the same session, unless at the request of the senate, or be appointed to the same office during the recess of the general assembly.

SEC. 16. All civil officers appointed by the governor and senate shall be nominated to the senate within fifty days from the commencement of each regular session of the general assembly, and their term of office, except in cases otherwise provided for in this constitution, shall commence on the first Monday of May next ensuing their appointment, and continue for two years, (unless sooner removed from office,) and until their successors respectively qualify according to law.

SEC. 17. The governor may suspend or arrest any military officer of the State for disobedience of orders, or other military offence; may remove him in pursuance of the sentence of a court-martial; and may remove, for incompetency or misconduct, all civil officers who received appointments from the executive for a term not exceeding two years.

SEC. 18. The governor may convene the general assembly, or the senate alone, on extraordinary occasions; and whenever, from the presence of an enemy, or from any other cause, the seat of government shall become an unsafe place for the meeting of the general assembly, he may direct their sessions to be held at some other convenient place.

SEC. 19. It shall be the duty of the governor semi-annually, and oftener, if he deem it expedient, to examine the bank-book, account-books, and official proceedings of the treasurer and comptroller of the State.

SEC. 20. He shall, from time to time, inform the general assembly of the condition of the State, and recommend to their consideration such measures as he may judge necessary and expedient.

SEC. 21. He shall have power to grant reprieves and pardons, except in cases of impeachment, and in cases in which he is prohibited by other articles of this constitution, and to remit fines and forfeitures for offences against the State; but shall not remit the principal or interest of any debt due to the State, except in cases of fines and forfeitures; and before granting a *nolle prosequi*, or pardon, he shall give notice

in one or more newspapers of the application made for it, and of the day on or after which his decision will be given; and in every case in which he exercises this power, he shall report to either branch of the general assembly, whenever required, the petitions, recommendations, and reasons which influenced his decision.

SEC. 22. The governor shall reside at the seat of government, and shall receive for his services an annual salary of four thousand dollars.

SEC. 23. A secretary of state shall be appointed by the governor, by and with the advice and consent of the senate, who shall continue in office, unless sooner removed by the governor, till the end of the official term of the governor from whom he received his appointment, and shall receive an annual salary of one thousand dollars.

SEC. 24. The secretary of state shall carefully keep and preserve a record of all official acts and proceedings, which may at all times be inspected by a committee of either branch of the general assembly, and shall perform such other duties as are now or may hereafter be prescribed by law, or as may properly belong to his office.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislature shall consist of two distinct branches, a senate and a house of delegates, which shall be styled "The general assembly of Maryland."

SEC. 2. Immediately after the adoption of this constitution, and before there shall have been held any general election under it, the mayor and city council of Baltimore shall proceed to lay off and divide the said city into three several districts, of equal population and contiguous territory, as near as may be; which said districts shall be called the first, second, and third legislative districts of Baltimore City.

SEC. 3. Every county in the State and each legislative district of Baltimore City, as hereinbefore provided for, shall be entitled to one senator, who shall be elected by the qualified voters of the counties and of the legislative districts of Baltimore City respectively, and shall serve for four years from the date of his election, subject to the classification of senators hereinafter provided for.

SEC. 4. The white population of the State shall constitute the basis of representation in the house of delegates, and the apportionment of the delegates among the several counties and legislative districts of the city of Baltimore shall be as follows: For every five thousand persons, or a fractional part thereof above one-half, one delegate shall be chosen, until the number of delegates in each county and legislative district of the city of Baltimore shall reach five; above that number, one delegate shall be chosen for the next twenty thousand persons, or a fractional portion over one-half thereof, in each county and legislative district of the city of Baltimore; above that number each county and legislative district of the said city shall elect one delegate for every eighty thousand persons, or fractional portion thereof above one-half. Upon this principle, and as soon as practicable after each national census, or State enumeration of inhabitants, the general assembly shall apportion the members of the house of delegates among the several counties and the several legislative districts of Baltimore City according to the white population of each. But until such apportionment is made the house of delegates shall consist of eighty members, distributed as follows: Alleghany, five members; Anne Arundel, two; each of the three legislative districts in Baltimore City, six; Baltimore County, six; Calvert, one; Caroline, two; Carroll, five; Cecil, four; Charles, one; Dorchester, two; Frederick, six; Harford, four; Howard, two; Kent, two; Montgomery, two; Prince George's, two; Queen Anne's, two; Saint Mary's, one; Somerset, three; Talbot, two; Washington, five; Worcester, three.

SEC. 5. The members of the house of delegates shall be elected by the qualified voters of the counties and the legislative districts of Baltimore City, respectively, to serve for two years from the day of their election.

SEC. 6. The first election for senators and delegates shall take place on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-four; and the elections for delegates, and, as nearly as practicable, for one-half of the senators, shall be held on the same day in every second year thereafter.



SEC. 7. Immediately after the senate shall have convened, after the first election under this constitution, the senators shall be divided by lots into two classes, as nearly equal in number as may be; senators of the first class shall go out of office at the expiration of two years, and senators shall be elected on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-six, for the term of four years, to supply their places; so that, after the first election, one-half of the senators may be chosen every year. In case the number of senators be hereinafter increased, such classification of the additional senators shall be made as to preserve, as nearly as may be, an equal number in each class.

SEC. 8. No person shall be eligible as a senator or delegate who, at the time of his election, is not a citizen of the United States, and who has not resided at least three years next preceding the day of his election in this State, and the last year thereof in the county or in the legislative district of Baltimore City which he may be chosen to represent, if such county or legislative district of such city shall have been so long established, and if not, then in the county or city from which, in whole or part, the same may have been formed; nor shall any person be eligible as a senator unless he shall have attained the age of twenty-five years, nor as a delegate unless he shall have attained the age of twenty-one years, at the time of his election.

SEC. 9. No member of Congress or person holding any civil or military office under the United States shall be eligible as a senator or delegate; and if any person shall, after his election as a senator or delegate, be elected to Congress, or be appointed to any office, civil or military, under the Government of the United States, his acceptance thereof shall vacate his seat.

SEC. 10. No person holding any civil office of profit or trust under this State, except justices of the peace, shall be eligible to the office of senator or delegate.

SEC. 11. No collector, receiver or holder of public moneys, shall be eligible as senator or delegate, or to any office of profit or trust under this State, until he shall have accounted for and paid into the treasury all sums on the books thereof charged to and due by him.

SEC. 12. In case of death, disqualification, resignation, refusal to act, expulsion, or removal from the county or legislative district of Baltimore City for which he shall have been elected, of any person who shall have been chosen as a delegate or senator, or in case of a tie between two or more such qualified persons, a warrant of election shall be issued by the speaker of the house of delegates, or president of the senate, as the case may be, for the election of another person in his place, of which election not less than ten days' notice shall be given, exclusive of the day of the publication of the notice and of the day of election; and in case of such resignation or refusal to act, being communicated in writing to the governor by the person so resigning or refusing to act, or if such death occur during the legislative recess, and more than ten days before its termination, it shall be the duty of the governor to issue a warrant of election to supply the vacancy thus created, in the same manner the said speaker or president might have done during the session of the general assembly: *Provided, however*, That unless a meeting of the general assembly may intervene, the election thus ordered to fill such vacancy shall be held on the day of the ensuing election for delegates and senators.

SEC. 13. The general assembly shall meet on the first Wednesday of January, eighteen hundred aud sixty-five, and on the same day in every second year thereafter, and at no other time, unless convened by the proclamation of the governor.

SEC. 14. The general assembly shall continue its session so long as in its judgment the public interest may require, and each member thereof shall receive a compensation of five dollars per diem, for every day he shall attend the sessions, but shall receive no per diem when absent, unless absent on account of sickness: *Provided, however*, That no member shall receive any other or larger sum than four hundred dollars. When the general assembly shall be convened by proclamation of the governor, the session shall not continue longer than thirty days, and in such case the compensation shall be at the rate of five dollars per diem.

SEC. 15. No book or other printed matter not appertaining to the business of the

session shall be purchased or subscribed for for the use of the members of the general assembly, or be distributed among them at the public expense.

SEC. 16. No senator or delegate, after qualifying as such, notwithstanding he may thereafter resign, shall, during the whole period of time for which he was elected, be eligible to any office which shall have been created, or the salary or profits of which shall have been increased, during such term, or shall during said whole period of time be appointed to any civil office by the executive or general assembly.

SEC. 17. No senator or delegate shall be liable, in any civil action or criminal prosecution whatever, for words spoken in debate.

SEC. 18. Each house shall be judge of the qualifications and elections of its members, subject to the laws of the State; shall appoint its own officers, determine the rules of its own proceedings, punish a member for disorderly or disrespectful behavior, and, with the consent of two-thirds of its whole number of members elected, expel a member; but no member shall be expelled a second time for the same offence.

SEC. 19. A majority of the whole number of the members elected to each house shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day and compel the attendance of absent members, in such manner, and under such penalties, as each house may prescribe.

SEC. 20. The doors of each house and of committees of the whole shall be open, except when the business is such as ought to be kept secret.

SEC. 21. Each house shall keep a journal of its proceedings, and cause the same to be published. The yeas and nays of members on any questions shall, at the call of any five of them in the house of delegates, or one in the senate, be entered on the journal.

SEC 22. Each house may punish, by imprisonment during the session of the general assembly, any person not a member for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings, or any of its officers in the execution of their duties: *Provided*, Such imprisonment shall not, at any one time, exceed ten days.

SEC. 23. The house of delegates may inquire, on the oath of witnesses, into all complaints, grievances, and offences, as the grand inquest of the State, and may commit any person, for any crime, to the public jail, there to remain until discharged by due course of law; they may examine and pass all accounts of the State, relating either to the collection or expenditure of the revenue, and appoint auditors to state and adjust the same; they may call for all public or official papers and records, and send for persons whom they may judge necessary in the course of their inquiries concerning affairs relating to the public interest, and may direct all office bonds, which shall be made payable to the State, to be sued for any breach thereof.

SEC. 24. Neither house shall, without the consent of the other, adjourn for more than three days at any one time, nor to any other place than that in which the house shall be sitting, without the concurrent vote of two-thirds of the members present.

SEC. 25. The house of delegates shall have the sole power of impeachment in all cases, but a majority of all the members elected must concur in an impeachment; all impeachments shall be tried by the senate, and, when sitting for that purpose, the senators shall be on oath or affirmation to do justice according to the law and evidence, but no person shall be convicted without the concurrence of two-thirds of all the senators elected.

SEC. 26. Any bill may originate in either house of the general assembly, and be altered, amended, or rejected by the other; but no bill shall originate in either house during the last ten days of the session, nor become a law until it be read on three different days of the session in each house, unless three-fourths of the members of the house where such bill is pending shall so determine.

SEC. 27. No bill shall become a law unless it be passed in each house by a majority of the whole number of members elected, and on its final passage the ayes and noes be recorded.

SEC. 28. The style of all laws of this State shall be: "*Be it enacted by the general assembly of Maryland*," and all laws shall be passed by original bill; and every law enacted by the general assembly shall embrace but one subject, and that shall be

described in the title; and no law nor section of a law shall be revised or amended by reference to its title or section only, and it shall be the duty of the general assembly, in amending any article or section of the code of laws of this State, to enact the same as the said article or section would read when amended; and whenever the general assembly shall enact any public general law, not amendatory of any section or article in the said code, it shall be the duty of the general assembly to enact the same in articles and sections, in the same manner as the said code is arranged, and to provide for the publication of all additions and alterations which may be made to the code.

SEC. 29. Every bill, when passed by the general assembly and sealed with the great seal, shall be presented to the governor, who shall sign the same in the presence of the presiding officers and chief clerks of the senate and house of delegates. Every law shall be recorded in the office of the court of appeals, and, in due time, be printed, published, and certified under the great seal to the several courts, in the same manner as has been heretofore usual in this State.

SEC. 30. No law passed by the general assembly shall take effect until the first day of June next after the session at which it may be passed, unless it be otherwise expressly declared therein; and in case any public law is made to take effect before the said first day of June, the general assembly shall provide for the immediate publication of the same.

SEC. 31. No money shall be drawn from the treasury of the State, except in accordance with an appropriation by law, and every such law shall distinctly specify the sum appropriated, and the object to which it shall be applied: *Provided*, That nothing herein contained shall prevent the general assembly from placing a contingent fund at the disposal of the executive, who shall report to the general assembly, at each session, the amount expended and the purposes to which it was applied. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws after each regular session of the general assembly.

SEC. 32. The general assembly shall not pass local or special laws in any of the following-enumerated cases, viz: For the assessment and collection of taxes for State or county purposes, or extending the time for the collection of taxes; providing for the support of public schools; the preservation of school-funds; the location or the regulation of school-houses; granting divorces; relating to fees or salaries; relating to the interest on money; providing for regulating the election or compensation of State or county officers; or designating the places of voting; or the boundaries of election-districts; providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities, by executors, administrators, guardians, or trustees; giving effect to informal or invalid deeds or wills; refunding money paid into the State treasury, or releasing persons from their debts or obligations to the State, unless recommended by the governor or officers of the treasury department; or establishing, locating, or affecting the construction of roads, and the repairing or building of bridges. And the general assembly shall pass no special law for any case for which provision has been made by an existing general law. The general assembly, at its first session after the adoption of this constitution, shall pass general laws providing for the cases enumerated in this section, and for all other cases where a general law can be made applicable.

SEC. 33. No debt shall be hereafter contracted by the general assembly unless such debts shall be authorized by a law providing for the collection of an annual tax or taxes sufficient to pay the interest on such debt as it falls due, and also to discharge the principal thereof within fifteen years from the time of contracting the same, and the taxes laid for this purpose shall not be repealed or applied to any other object until the said debt and interest thereon shall be fully discharged. The credit of the State shall not, in any manner, be given or loaned to or in aid of any association or corporation, nor shall the general assembly have the power in any mode to involve the State in the construction of works of internal improvement, nor in any enterprise which shall involve the faith or credit of the State, nor make any appropriations therefor; and they shall not use or appropriate the proceeds of the internal-improvement companies, or of the State tax now levied, or which may hereafter be levied,

to pay off the public debt, to any other purpose until the interest and debt are fully paid, or the sinking-fund shall be equal to the amount of the outstanding debt; but the general assembly may, without laying a tax, borrow an amount, never to exceed fifty thousand dollars, to meet temporary deficiencies in the treasury, and may contract debts to any amount that may be necessary for the defence of the State.

SEC. 34. No extra compensation shall be granted or allowed by the general assembly to any public officer, agent, servant, or contractor, after the services shall have been rendered or the contract entered into; nor shall the salary or compensation of any public officer be increased or diminished during his term of office.

SEC. 35. No lottery-grant shall ever hereafter be authorized by the general assembly.

SEC. 36. The general assembly shall pass no law nor make any appropriation to compensate the masters or claimants of slaves emancipated from servitude by the adoption of this constitution.

SEC. 37. No person shall be imprisoned for debt.

SEC. 38. The general assembly shall grant no charter for banking purposes, nor renew any banking corporation now in existence, except upon the condition that the stockholders shall be liable to the amount of their respective share or shares of stock in such banking institution, for all its debts and liabilities, upon note, bill, or otherwise, and upon the further condition, that no director or other officer of said corporation shall borrow any money from said corporation, and if any director or other officer shall be convicted, upon indictment, of directly or indirectly violating this section, he shall be punished, by fine or imprisonment, at the discretion of the court. The books, papers, and accounts of all banks shall be open to inspection, under such regulations as may be prescribed by law.

SEC. 39. The general assembly shall enact no law authorizing private property to be taken for public use, without just compensation, as agreed upon between the parties, or awarded by a jury, being first paid or tendered to the party entitled to such compensation.

SEC. 40. Any citizen of this State who shall, after the adoption of this constitution, either in or out of this State, fight a duel with deadly weapons, or send or accept a challenge so to do, or who shall act as a second, or knowingly aid or assist in any manner those thus offending, and any citizen who has thus offended or so aided or assisted those thus offending, since the first Wednesday of June, eighteen hundred and fifty-one, shall ever thereafter be incapable of holding any office of trust or profit under this State.

SEC. 41. The general assembly shall pass laws for the preservation of the purity of elections by the registration of voters, and by such other means as may be deemed expedient; and to make effective the provisions of the constitution disfranchising certain persons, or disqualifying them from holding office.

SEC. 42. The general assembly shall pass laws necessary to protect the property of the wife from the debts of the husband during her life, and for securing the same to her issue after her death.

SEC. 43. Laws shall be passed by the general assembly to protect from execution a reasonable amount of property of a debtor, not exceeding in value the sum of five hundred dollars.

SEC. 44. The general assembly shall provide a simple and uniform system of charges in the offices of clerks of courts and registers of wills, in the counties of this State and the city of Baltimore, and for the collection thereof: *Provided*, The amount of compensation to any of said officers shall not exceed the sum of twenty-five hundred dollars a year over and above office expenses, and compensation to assistants: *And provided further*, That such compensation of clerks, registers, assistants, and office expenses shall always be paid out of the fees or receipts of the offices respectively.

SEC. 45. The general assembly shall have power to receive from the United States any grant or donation of land, money, or securities, for any purpose designated by the United States, and shall administer or distribute the same according to the conditions of said grant.

SEC. 46. The general assembly shall make provision for all cases of contested elections of any of the officers not herein provided for.

SEC. 47. The general assembly shall pass laws requiring the president, directors, trustees, or agents of corporations, created or authorized by the laws of this State, teachers or superintendents of the public schools, colleges, or other institutions of learning; attorneys at law, jurors, and such other persons as the general assembly shall from time to time prescribe, to take the oath of allegiance to the United States set forth in the first article of this constitution.

SEC. 48. The general assembly shall have power to accept the cession of any territory, contiguous to this State, from the States of Virginia and West Virginia, or from the United States, with the consent of Congress and of the inhabitants of such ceded territory, and in case of such cessions the general assembly may divide such territory into counties, and shall provide for the representation of the same in the general assembly, on the basis fixed by this constitution, and may, for that purpose, increase the number of senators and delegates, and the general assembly shall enact such laws as may be required to extend the constitution and laws of this State over such territory, and may create courts, conformably to the constitution, for such territory, and may for that purpose increase the number of judges of the court of appeals.

SEC. 49. The general assembly shall provide by law for the registration of births, marriages, and deaths, and shall pass laws providing for the celebration of marriage between any persons legally competent to contract marriage, and shall provide that any persons prevented by conscientious scruples from being married by any of the existing provisions of law, may be married by any judge or clerk of any court of record, or any mayor of any incorporated city in this State.

SEC. 50. The rate of interest in this State shall not exceed 6 per centum per annum, and no higher rate shall be taken or demanded; and the general assembly shall provide by law all necessary forfeitures and penalties against usury.

SEC. 51. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the general assembly, the object of the corporation cannot be attained under general laws. All laws and special acts, pursuant to this section, may be altered from time to time, or repealed: *Provided,* Nothing herein contained shall be construed to alter, change, or amend in any manner the section in relation to banks.

SEC. 52. The governor, comptroller, and treasurer of the State are hereby authorized, conjointly, or any two of them, to exchange the State's interest as stockholder and creditor in the Baltimore and Ohio Railroad Company for an equal amount of the bonds or registered debt now owing by the State; and, subject to such regulations and conditions as the general assembly may from time to time prescribe, to sell the State's interest in the other works of internal improvement, whether as a stockholder or a creditor; also, the State's interest in any banking corporation, and to receive in payment the bonds and registered debt now owing by the State, equal in amount to the price obtained for the State's said interest: *Provided,* That the interest of the State in the Washington Branch of the Baltimore and Ohio Railroad be reserved and excepted from sale: *And provided further,* That no sale or contract of sale of the State's interest in the Chesapeake and Ohio Canal, the Chesapeake and Delaware Canal, and the Susquehanna and Tide Water Canal Companies shall go into effect until the same shall be ratified by the ensuing general assembly.

SEC. 53. The general assembly before authorizing the sale of the State's interest in the Chesapeake and Ohio Canal, and before prescribing regulations and conditions for said sale, shall pass all laws that may be necessary to authorize the counties of Alleghany, Washington, Frederick, and Montgomery, or any one of them, to create a debt by the issue of bonds or otherwise, so as to enable them, or any of them, to become the purchasers of said interest.

SEC. 54. The general assembly shall have power to regulate by law, not inconsistent with this constitution, all matters which relate to the judges of election, time, place, and manner of holding elections in this State, and of making returns thereof.

SEC. 55. The general assembly shall have power to pass all such laws as may be necessary and proper for carrying into execution the powers vested by this constitution in any department or office of the government, and the duties imposed upon them thereby.

ARTICLE IV.—JUDICIARY DEPARTMENT.

PART I.—*General Provisions.*

SECTION 1. The judicial power of this State shall be vested in a court of appeals, circuit courts, orphans' courts, such courts for the city of Baltimore as may be hereinafter prescribed or provided for, and justices of the peace; all said courts shall be courts of record, and each shall have a seal, to be used in the authentication of all process issuing from them. The process and official character of justices of the peace shall be authenticated as hath heretofore been practised in this State, or may hereafter be prescribed by law.

SEC. 2. The judges of the several courts, except the judges of the orphans' courts, shall be citizens of the United States, and residents of this State, not less than five years next preceding their election, or appointment by the executive in case of a vacancy; and not less than one year next preceding their election or appointment, residents in the judicial district or circuit, as the case may be, for which they may be elected or appointed; they shall not be less than thirty years of age at the time of their election, and selected from those who have been admitted to practise law in this State, and who are most distinguished for integrity, wisdom, and sound legal knowledge.

SEC. 3. The judges of the court of appeals shall be elected by the qualified voters of the State; and the governor, by and with the advice and consent of the senate, shall designate the chief justice; and the judges of the judicial circuits shall be elected by the qualified voters of their respective circuits; each judge of the court of appeals and of each judicial circuit shall hold his office for the term of fifteen years from the time of his election, or until he shall have attained the age of seventy years, whichever may first happen, and be reëligible thereto until he shall have attained the age of seventy years, and not after.

SEC. 4. Any judge shall be removed from office by the governor on conviction, in a court of law, of incompetency, of wilful neglect of duty, of misbehavior in office, or any other crime; or on impeachment according to this constitution, or the laws of the State; or on the address of the general assembly, two-thirds of each house concurring in such address, and the accused having been notified of the charges against him, and had opportunity of making his defence.

SEC. 5. In case of the death, resignation, removal, or other disqualification of a judge of any court of this State, except of the orphans' courts, the governor, by and with the advice and consent of the senate, shall thereupon appoint a person duly qualified to fill said office until the next general election thereafter, whether for members of general assembly or county officers, whichever shall first occur, at which time an election shall be held as herein prescribed for a judge, who shall hold said office for the term of fifteen years, and until the election and qualification of his successor.

SEC. 6. All judges shall, by virtue of their offices, be conservatives of the peace throughout the State, and no fees or perquisites, commission or reward of any kind, shall be allowed to any judge in this State, besides his annual salary or fixed per diem, for the discharge of an official duty.

SEC. 7. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity within such degrees as now are or may hereafter be prescribed by law, or where he shall have been of counsel in the case.

SEC. 8. The general assembly shall provide for the trial of causes in case of the disqualification of the judge of the superior court of Baltimore City, the court of common pleas, the circuit court of Baltimore City, and the criminal court of Baltimore, and also in case of a disqualification of any judge of other circuit courts of this State, to hear and determine the same, but in case of such disqualification, the

parties thereto may, by consent, appoint a person to try the same; and the parties to any cause may submit the same to the court for determination without the aid of a jury.

SEC. 9. The judge or judges of any court of this State, except the court of appeals, shall order and direct the record of proceedings in any suit of action, issue, or petition, presentment or indictment, pending in such court, to be transmitted to some other court in the same or any adjoining circuit having jurisdiction in such cases, whenever any party to such cause, or the counsel of any party, shall make it satisfactorily appear to the court that such party cannot have a fair and impartial trial in the court in which such suit or action, issue or petition, presentment or indictment, is pending; and the general assembly shall make such modifications of existing law as may be necessary to regulate and give force to this provision.

SEC. 10. The judge or judges of any court may appoint such officers for their respective courts as may be found necessary, and it shall be the duty of the general assembly to prescribe by law a fixed compensation for all such officers.

SEC. 11. Every person being a citizen of the United States shall be permitted to appear to and try his own case in all the courts of this State.

SEC. 12. Any person who shall, after this constitution shall have gone into effect, detain in slavery any person emancipated by the provisions of this constitution, shall, on conviction, be fined not less than five hundred dollars nor more than five thousand dollars, or be imprisoned not more than five years; and any of the judges of this State shall discharge, on *habeas corpus*, any person so detained in slavery.

SEC. 13. The clerks of the several courts created or continued by this constitution shall have charge and custody of the records and other papers, shall perform all the duties and be allowed the fees which appertain to their several offices, as the same now are or may hereafter be regulated by law.

SEC. 14. All election of judges and other officers provided for by this constitution, State's attorneys excepted, shall be certified and the returns made by the clerks of the respective counties to the governor, who shall issue commissions to the different persons for the offices to which they shall have been respectively elected; and in all such elections, the person having the greatest number of votes shall be declared to be elected.

SEC. 15. If in any case of election for judges, clerks of the courts of law, and registers of wills, the opposing candidates shall have an equal number of votes, it shall be the duty of the governor to order a new election; and in case of any contested election the governor shall send the returns to the house of delegates, who shall judge of the election and qualification of the candidates at such election.

SEC. 16. All public commissions and grants shall run thus, "The State of Maryland," &c., and shall be signed by the governor, with the seal of the State annexed; all writs and process shall run to the same style, and be tested, sealed, and signed as usual; and all indictments shall conclude "against the peace, government, and dignity of the State."

PART II.—*Court of Appeals.*

SEC. 17. The court of appeals shall consist of a chief justice and four associate justices, and for their selection the State shall be divided into five judicial districts, as follows, viz: Worcester, Somerset, Dorchester, Talbot, Caroline, Queen Anne, Kent, and Cecil Counties shall compose the first district; Harford and Baltimore Counties, and the first seven wards of Baltimore City, shall compose the second district; Baltimore City, except the first seven wards, shall compose the third district; Alleghany, Washington, Frederick, Howard, and Carroll Counties shall compose the fourth district; Saint Mary's, Charles, Anne Arundel, Calvert, Prince George's, and Montgomery Counties shall compose the fifth district, and one of the justices of the court of appeals shall be elected from each of said districts, by the qualified voters of the whole State. The present chief justice and associate justices of the court of appeals shall continue to act as such until the expiration of the term for which they were respectively elected, and until their successors are elected and qualified; and an election for a justice of the court of appeals, to be taken from the fourth judicial

district, shall be held on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-four.

SEC. 18. The court of appeals shall hold its sessions in the city of Annapolis, on the first Monday in April and the first Monday in October of each and every year, or at such other times as the general assembly may by law direct, and it shall be competent for the justices of said court, sufficient cause appearing to them, temporarily to transfer their sittings elsewhere.

SEC. 19. The jurisdiction of the court of appeals shall be coextensive with the limits of the State, and such as now is or may hereafter be prescribed for it by law, and its sessions shall continue for not less than ten months in the year, if the business before it shall so require.

SEC. 20. Any three of the justices of the court of appeals may constitute a quorum, but no cause shall be decided without the concurrence of at least three justices in the decision; and in every case decided an opinion in writing shall be filed within three months after the argument or submission of the cause, and the judgment of the court shall be final and conclusive.

SEC. 21. The salary of the justices of the court of appeals shall be three thousand dollars each per annum, payable quarterly.

SEC. 22. Provision shall be made by law for publishing reports of all causes argued and determined in the court of appeals, which the justices shall designate as proper for publication.

SEC. 23. The court of appeals shall appoint its own clerk, who shall hold his office for six years, and may be reappointed at the end thereof; he shall be subject to removal by the court for incompetency, neglect of duty, misdemeanor in office, or such other cause or causes as may be prescribed by law.

PART III.—*Circuit Courts.*

SEC. 24. The State shall be divided into thirteen judicial circuits, in manner following: The counties of Saint Mary's and Charles shall constitute the first circuit; the counties of Anne Arundel and Calvert, the second; the counties of Prince George's and Montgomery, the third; the county of Frederick, the fourth; the county of Washington, the fifth; the county of Alleghany, the sixth; the counties of Carroll and Howard, the seventh; the county of Baltimore, the eighth; the counties of Harford and Cecil, the ninth; the counties of Kent and Queen Anne's, the tenth; the counties of Talbot and Caroline, the eleventh; the counties of Dorchester, Somerset, and Worcester, the twelfth; and the city of Baltimore, the thirteenth.

SEC. 25. One court shall be held in each county of the State. The said courts shall be called circuit courts for the county in which they may be held, and shall have and exercise all the power, authority, and jurisdiction, original and appellate, which the present circuit courts of this State now have and exercise, or which may hereafter be prescribed by law.

SEC. 26. For each circuit (the thirteenth excepted) there shall be one judge, who shall be styled circuit judge, who, during his term of office, shall reside in one of the counties composing the circuit for which he may be elected; the said judges shall hold a term of their courts in each of the counties composing their respective circuits at such times as now are or may hereafter be fixed by law, such terms to be never less than two in each year in each county; special terms may be held by said judges in their discretion, whenever the business of their several counties renders such terms necessary.

SEC. 27. The present judges of the circuit courts shall continue to act as judges of the respective circuit courts within the judicial circuits in which they respectively reside, until the expiration of the term for which they were respectively elected, and until their successors are elected and qualified, viz: The present judges of the first, second, third, fourth, sixth, and eighth judicial circuits, as organized at the time of the adoption of this constitution, shall continue to act as judges respectively of the first, second, fourth, fifth, ninth, and twelfth judicial circuits as organized under the constitution; and an election of judges of the third, sixth, seventh, eighth, tenth, and eleventh judicial circuits shall be held on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-four.



SEC. 28. The salary of each judge of the circuit court shall be twenty-five hundred dollars per annum, payable quarterly, and shall not be increased or diminished during his continuance in office.

SEC. 29. There shall be a clerk of the circuit court for each county, who shall be selected by a plurality of the qualified voters of said county; he shall hold his office for the term of six years from the time of his election, and until a new election is held and his successor duly qualified; he shall be reëligible at the end of his term, and shall at any time be subject to removal for wilful neglect of duty, or other misdemeanor in office, on conviction in a court of law. In the event of any vacancy in the office of the clerk of any of the circuit courts, said vacancy shall be filled by the judge of said circuit in which said vacancy occurs, until the next general election for county officers, when a clerk of said circuit court shall be elected to serve for six years thereafter.

SEC. 30. The judges of the respective circuit courts of this State, and of the courts of Baltimore City, shall render their decisions, in all cases argued before them, or submitted for their judgment, within two months after the same shall have been so argued or submitted.

PART IV.—*Courts of Baltimore City.*

SEC. 31. There shall be in the thirteenth judicial circuit four courts, to be styled the superior court of Baltimore City; the court of common pleas; the circuit court of Baltimore City, and the criminal court of Baltimore. Each court shall consist of one judge, who shall be elected by the legal and qualified voters of said city, and shall hold his office for the term of fifteen years, subject to the provisions of this constitution with regard to the election and qualification of judges, and their removal from office, and shall exercise the jurisdiction hereinafter specified.

SEC. 32. Each of said judges shall receive an annual salary of three thousand dollars, payable quarterly.

SEC. 33. The superior court of Baltimore City shall have jurisdiction over all suits where the debt or damage claimed, exclusive of interest, shall exceed the sum of one thousand dollars, and in case any plaintiff or plaintiffs shall recover less than the sum or value of one thousand dollars, he or they shall be deemed as adjudged to pay costs in the discretion of the court. The said court shall have jurisdiction as a court of equity within the limits of the said city, and in all other civil cases which are not hereinafter assigned to the court of common pleas, and also have jurisdiction in all cases of appeals from the commissioners for opening the streets.

SEC. 34. The court of common pleas shall have civil jurisdiction in all suits where the debt or damage claimed, exclusive of interest, shall be over one hundred dollars, and shall not exceed one thousand dollars; and shall also have jurisdiction in all cases of appeal in civil cases from the judgment of justices of the peace in the said city, and shall have jurisdiction in all applications for the benefit of the insolvent laws of this State, and the supervision and control of the trustees thereof.

SEC. 35. The circuit court of Baltimore City shall have jurisdiction concurrent with the superior court of Baltimore City, in all cases in equity, in cases arising under the act to direct descents, and its supplements, and shall exercise all the power that is now conferred by law: *Provided*, Said court shall not have jurisdiction in applications for the writ of *habeas corpus*, in cases of persons charged with criminal offences.

SEC. 36. The criminal court of Baltimore shall have and exercise all the jurisdiction now held and exercised by the criminal court of Baltimore, except in cases of appeals from commissioners for opening streets, and shall have jurisdiction in all cases of appeals from justices of the peace in said city, for the recovery of fines, penalties, and forfeitures.

SEC. 37. The present judges of the several courts of Baltimore City shall continue to act as such until the expiration of the terms for which they were respectively elected, and until their successors are elected and qualified.

SEC. 38. All causes pending in the several courts of Baltimore City at the adoption of this constitution shall be prosecuted to final judgment, as though the jurisdiction of the several courts in which they may be pending had not been changed.

SEC. 39. There shall be a clerk of each of the said courts of Baltimore City, who shall be elected by the legal and qualified voters of said city, and shall hold his office for six years from the time of his election, and until his successor is elected and qualified, and be reëligible thereto, subject to be removed for wilful neglect of duty or other misdemeanor in office on conviction in a court of law. In case of a vacancy in the office of a clerk in any of the said courts, the judge of the court of which he was clerk shall have the power to appoint a clerk until the general election for county officers held next thereafter, when a clerk of said court shall be elected to serve for six years thereafter.

SEC. 40. The present clerk of the superior court of Baltimore City and the court of common pleas and of the criminal court of Baltimore shall continue to act as clerks of said courts respectively during the time for which they were severally elected, and until their successors are elected and qualified, and in case of the death, resignation, or disqualification of either of said clerks before the expiration of the time for which they were elected, the judge of the court where such death, resignation, or other disqualification may occur shall have the power to appoint a clerk as provided by the thirty-ninth section of this article. The present clerk of the circuit court of Baltimore City shall continue to act as clerk of said court until the first election for county officers next after the adoption of this constitution, when a clerk of said court shall be elected in the same manner, and hold his office for the same time, and be subject to the same provisions of this constitution, as the clerks of the courts in said city.

SEC. 41. The general assembly shall, whenever it may think the same proper and expedient, provide by law another court for the city of Baltimore, to consist of one judge, to be elected by the legal and qualified voters of said city, who shall be subject to the same constitutional provisions, hold his office for the same term of years, and receive the same compensation as the judge of the superior court of said city, and said court shall have such jurisdiction and powers as may be prescribed by law; and the general assembly may reapportion the civil jurisdiction among the several courts in Baltimore City from time to time as in their judgments the public interest and convenience may require.

SEC. 42. The clerk of the court of common pleas shall have authority to issue within said city all marriage and other licenses required by law, subject to such provisions as the general assembly have now or may hereafter prescribe, and the clerk of the superior court of said city shall receive and record all deeds, conveyances, and other papers which are required by law to be recorded in said city. He shall also have custody of all papers connected with the proceedings on the law or equity side of Baltimore County court, and of the dockets thereof, so far as the same have relation to the city of Baltimore.

PART V.—*Orphans' Court.*

SEC. 43. There shall be an orphans' court in the city of Baltimore, and in each of the counties of this State. The qualified voters of the city of Baltimore and of the several counties of the State shall, on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-seven, elect three men to be judges of the orphans' court of said city and counties respectively; one of the said judges first elected shall hold his office for two years, one for four years, and the other for six years; and at the first meeting after their election and qualification, or as soon thereafter as practicable, they shall determine by lot which one of their members shall hold his office for two, four, and six years respectively, and thereafter there shall be elected as aforesaid, at each general election for county officers, one judge to serve for the term of six years. No person shall be elected judge of the orphans' court, unless he be at the time of his election a citizen of the United States and resident for twelve months in the city or county for which he may be elected. Each of said judges shall receive such compensation, to be paid by the said counties and city respectively, as is now or may hereafter be prescribed by the general assembly.

SEC. 44. In case of the death, resignation, removal, or other disqualification of a judge of an orphans' court, the governor, by and with the advice and consent of the senate, shall appoint a person duly qualified to fill said office for the residue of the term thus made vacant.

SEC. 45. The orphans' courts shall have all the powers now vested by law in the orphans' courts of this State, subject to such changes as the general assembly may prescribe, and shall have such other jurisdiction as may from time to time be provided by law.

SEC. 46. There shall be a register of wills in each county of the State and in the city of Baltimore, to be elected by the legal and qualified voters of said counties and city respectively, who shall hold his office for six years from the time of his election, and until his successor is elected and qualified; he shall be reëligible and subject at all times to removal for wilful neglect of duty or misdemeanor in office in the same manner that the clerks of courts are removable. In the event of any vacancy in the office of register of wills, said vacancy shall be filled by the judges of the orphans' court in which such vacancy occurs, until the next general election for county officers, when a register shall be elected to serve for six years thereafter.

PART VI.—*Justices of the Peace.*

SEC. 47. The governor, by and with the advice and consent of the senate, shall appoint such number of justices of the peace, and the county commissioners of the several counties, and the mayor and city council of Baltimore, shall appoint such number of constables for the several election-districts of the counties and wards of the city of Baltimore, as are now or may hereafter be prescribed by law; and justices of the peace and constables so appointed shall be subject to removal by the judge having criminal jurisdiction in the county or city for incompetency, wilful neglect of duty, or misdemeanor in office, on conviction in a court of law. The justices of the peace and constables so appointed and commissioned shall be conservators of the peace, shall hold their office for two years, and shall have such jurisdiction, duties, and compensation, subject to such right of appeal in all cases, from the judgment of justices of the peace, as hath been heretofore exercised, or shall be hereafter prescribed by law.

SEC. 48. In the event of a vacancy in the office of a justice of the peace, the governor shall appoint a person to serve as justice of the peace for the residue of the term, and in case of a vacancy in the office of constable, the county commissioners of the county in which the vacancy occurs, or the mayor and city council of Baltimore, as the case may be, shall appoint a person to serve as constable for the residue of the term.

PART VII.—*Sheriffs.*

SEC. 49. There shall be elected in each county, and in the city of Baltimore, in every second year, one person, resident in said county or city, above the age of twenty-five years, and at least five years preceding his election a citizen of this State, to the office of sheriff. He shall hold his office for two years, and until his successor is duly elected and qualified; shall be ineligible for two years thereafter; shall give such bond, exercise such powers, and perform such duties as now are or may hereafter be fixed by law. In case of a vacancy by death, refusal to serve, or neglect to qualify or give bond, by disqualification or removal from the county or city, the governor shall appoint a person to be sheriff for the remainder of the official term.

SEC. 50. Coroners, elisors, and notaries public may be appointed for each county and the city of Baltimore, in the manner, for the purposes, and with the powers now fixed or which may hereafter be prescribed by law.

ARTICLE V.

ATTORNEY-GENERAL.

SECTION 1. There shall be an attorney-general elected by the qualified voters of the State, on general ticket, on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-four, and on the same day in every fourth year thereafter, who shall hold his office for four years from the first Monday of January next ensuing his election, and until his successor shall be elected and qualified, and shall be reëligible thereto, and shall be subject to removal for incompetency, wilful reglect of duty, or misdemeanor in office, on conviction in a court of law.

SEC. 2. All elections for attorney-general shall be certified to, and returns made thereof by the clerks of the circuit courts for the several counties, and the clerk of the superior court of Baltimore City, to the governor of the State, whose duty it shall be to decide upon the election and qualifications of the person returned, and in case of a tie between two or more persons, to designate which of said persons shall qualify as attorney-general, and to administer the oath of office to the person elected.

SEC. 3. It shall be the duty of the attorney-general to prosecute and defend, on the part of the State, all cases which at the time of his election and qualification, and which thereafter may be depending in the court of appeals, or in the Supreme Court of the United States, by or against the State, or wherein the State may be interested; and he shall give his opinion in writing whenever required by the general assembly, or either branch thereof, the governor, the comptroller, the treasurer, or any State's attorney, on any matter or subject depending before them, or either of them, and when required by the governor or the general assembly he shall aid any State's attorney in prosecuting any suit or action brought by the State in any court of this State; and he shall commence and prosecute or defend any suit or action in any of said courts, on the part of the State, which the general assembly or the governor, acting according to law, shall direct to be commenced, prosecuted, or defended; and he shall receive for his services an annual salary of twenty-five hundred dollars; but he shall not be entitled to receive any fees, perquisites, or rewards whatever in addition to the salary aforesaid for the performance of any official duty, nor have power to appoint any agent, representative, or deputy, under any circumstances whatever.

SEC. 4. No person shall be eligible to the office of attorney-general who has not resided and practised law in this State for at least seven years next preceding his election.

SEC. 5. In case of vacancy in the office of attorney-general, occasioned by death, resignation, or his removal from the State, or his conviction, as hereinbefore specified, the said vacancy shall be filled by the governor for the residue of the term thus made vacant.

SEC. 6. It shall be the duty of the clerk of the court of appeals, and the commissioner of the land-office, respectively, whenever a case shall be brought into said court or office, in which the State is a party or has an interest, immediately to notify the attorney-general thereof.

THE STATE'S ATTORNEYS.

SEC. 7. There shall be an attorney for the State in each county and the city of Baltimore, to be styled "the State's attorney," who shall be elected by the voters thereof, respectively, on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-seven, and on the same day every fourth year thereafter, and shall hold his office for four years from the first Monday in January next ensuing his election, and until his successor shall be elected and qualified, and shall be reëligible thereto, and be subject to removal therefrom for incompetency, wilful neglect of duty, or misdemeanor in office, on conviction in a court of law.

SEC. 8. All elections for the State's attorney shall be certified to and returns made thereof by the clerks of the said counties and city to the judges thereof having criminal jurisdiction, respectively, whose duty it shall be to decide upon the elections and qualifications of the persons returned, and in case of a tie between two or more persons, to designate which of said persons shall qualify as State's attorney, and to administer the oaths of office to the persons elected.

SEC. 9. The State's attorney shall perform such duties and receive such fees and commissions as are now or may hereafter be prescribed by law, and if any State's attorney shall receive any other fee or reward than such as is or may be allowed by law, he shall, on conviction thereof, be removed from office: *Provided*, That the State's attorney for Baltimore City shall have power to appoint one deputy, at a salary of not more than fifteen hundred dollars per annum, to be paid by the State's attorney out of the fees of his office, as has heretofore been practised.

SEC. 10. No person shall be eligible to the office of State's attorney who has not been admitted to practise law in this State, and who has not resided for at least one year in the county or city in which he may be elected.

SEC. 11. In case of vacancy in the office of State's attorney, or of his removal from the county or city in which he shall have been elected, or on his conviction as herein specified, the said vacancy shall be filled by the judge of the county or city, respectively, having criminal jurisdiction, in which said vacancy shall occur, for the residue of the term thus made vacant.

ARTICLE VI.

TREASURY DEPARTMENT.

SECTION 1. The treasury department of this State shall consist of a comptroller and a treasurer.

SEC. 2. The comptroller shall be chosen by the qualified electors of the State at each regular election for members of the general assembly. He shall hold his office for two years, commencing on the second Wednesday in January next ensuing his election, and shall receive an annual salary of twenty-five hundred dollars, but shall not be allowed, nor shall he receive, any fees, commissions, or perquisites of any kind, in addition thereto, for the performance of any official duty or service. He shall keep his office at the seat of government, and shall take such oath and enter into such bond for the faithful performance of his duty as are now or may hereafter be prescribed by law. A vacancy in the office of comptroller shall be filled by the governor for the residue of the term. The first election for comptroller under this constitution shall be held on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-four; but the comptroller then elected shall not enter upon the discharge of the duties of his office until the expiration of the term of the present incumbent, unless the said office shall sooner become vacant.

SEC. 3. The comptroller shall have the general superintendence of the fiscal affairs of the State; he shall digest and prepare plans for the improvement and management of the revenue, and for the support of the public credit; prepare and report estimates of the revenue and expenditures of the State; superintend and enforce the collection of all taxes and revenue; adjust, settle, and preserve all public accounts; decide on the forms of keeping and stating accounts; grant, under regulations prescribed by law, all warrants for moneys to be paid out of the treasury in pursuance of appropriations by law, prescribe the formalities of the transfer of stock or other evidences of the State debt, and countersign the same, without which such evidences shall not be valid; he shall make full reports of all his proceedings and of the state of the treasury department within ten days after the commencement of each session of the general assembly, and perform such other duties as are now or may hereafter be prescribed by law.

SEC. 4. The treasurer shall be elected on joint ballot by the two houses of the general assembly at each regular session thereof. He shall hold his office for two years, and shall receive an annual salary of twenty-five hundred dollars, but shall not be allowed, nor shall he receive, any fees, commissions, or perquisites of any kind in addition thereto for the performance of any official duty or service. He shall keep his office at the seat of government, and shall take such oath and enter into such bond for the faithful discharge of his duty as are now or may hereafter be prescribed by law. A vacancy in the office of treasurer shall be filled by the governor for the residue of the term. The general assembly, at its first session after the adoption of this constitution, shall elect a treasurer, but the treasurer then elected shall not enter upon the discharge of the duties of his office until the expiration of the term of the present incumbent, unless the said office shall sooner become vacant.

SEC. 5. The treasurer shall receive and keep the moneys of the State, and disburse the same upon warrants drawn by the comptroller, and not otherwise; he shall take receipts for all moneys paid by him, and all receipts for moneys received by him shall be indorsed upon warrants signed by the comptroller, without which warrants, so signed, no acknowledgment of money received into the treasury shall be valid; and, upon warrants issued by the comptroller, he shall make arrangements for the payment of the interest of the public debt, and for the purchase thereof, on account of the sinking-fund. Every bond, certificate, or other evidence of the debt of the State

shall be signed by the treasurer and countersigned by the comptroller, and no new certificate or other evidence intended to replace another shall be issued until the old one shall be delivered to the treasurer, and authority executed in due form for the transfer of the same shall be filed in his office, and the transfer accordingly made on the books thereof, and the certificate or other evidence cancelled; but the general assembly may make provision for the loss of certificates or other evidences of the debt.

SEC. 6. The treasurer shall render his accounts quarterly to the comptroller, and on the third day of each regular session of the general assembly he shall submit to the senate and house of delegates fair and accurate copies of all accounts by him from time to time rendered and settled with the comptroller. He shall at all times submit to the comptroller the inspection of the moneys in his hands, and perform all other duties that are now or may hereafter be prescribed by law.

ARTICLE VII.

SUNDRY OFFICES.

SECTION 1. The governor, the comptroller of the treasury, and the treasurer shall constitute the board of public works in this State; they shall keep a journal of their proceedings, and shall hold regular sessions in the city of Annapolis on the first Wednesday in January, April, July, and October in each year, and oftener if necessary, at which sessions they shall hear and determine such matters as affect the public works of the State, and as the general assembly may confer upon them the power to decide.

SEC. 2. They shall exercise a diligent and faithful supervision of all public works in which the State may be interested as stockholder or creditor, and shall appoint the directors in every railroad or canal company in which the State has the legal power to appoint directors, which said directors shall represent the State in all meetings of the stockholders of every railroad or canal company in which the State is a stockholder; they shall require the directors of all public works, from time to time, and as often as there shall be any change in the rates of toll on any of said works, to furnish said board of public works a schedule of such modified rates of toll, and shall use all legal powers which they may possess to obtain the establishment of rates of toll which may prevent an injurious competition with each other to the detriment of the interests of the State; and so to adjust them as to promote the agricultural interests of the State; they shall report to the general assembly at each regular session, and recommend such legislation as they shall deem necessary and requisite to promote or protect the interests of the State in said public works; they shall perform such other duties as may be hereafter prescribed by law, and a majority of them shall be competent to act.

The governor, comptroller, and treasurer shall receive no additional salary for services rendered by them as members of the board of public works.

SEC. 3. There shall be a commissioner of the land-office, elected by the qualified voters of the State, on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and seventy, and on the same day in every sixth year thereafter, who shall hold his office for the term of six years from the first Monday in January ensuing his election. The returns of said election shall be made to the governor, and in the event of a tie between two or more candidates, the governor shall direct a new election to be held, by writs to the sheriffs of the several counties, and of the city of Baltimore, who shall hold said election after at least twenty days' notice, exclusive of the day of election. He shall perform such duties as are now required of the commissioner of the land-office, or such as may hereafter be prescribed by law, and shall also be the keeper of the chancery records. He shall receive a salary of two thousand dollars per annum, to be paid out of the treasury, and shall charge such fees as are now or may be hereafter fixed by law. He shall make a semi-annual report of all the fees of his office, both as commissioner of the land-office and as keeper of the chancery records, to the comptroller of the treasury, and shall pay the same semiannually into the treasury. In case of

vacancy in said office by death, resignation, or other cause, the governor shall fill such vacancy until the next general election for members of the general assembly thereafter, when a commissioner of the land-office shall be elected for the full term of six years ensuing.

SEC. 4. The State librarian shall be elected by a joint vote of the two branches of the general assembly for four years, and until his successor shall be elected and qualified. His salary shall be fifteen hundred dollars per annum, and the general assembly shall pass no law whereby he shall receive any additional compensation. He shall perform such duties as are now or may hereafter be prescribed by law. In case of a vacancy in the office of State librarian from death, resignation, or any other cause, the governor shall fill such vacancy until the next meeting of the general assembly thereafter, and until a successor be elected and qualified.

SEC. 5. The county commissioner shall be elected, on a general ticket, by the qualified voters of the several counties in this State; an election for county commissioners shall be held on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-five, and as nearly one-half as may be of said commissioners shall hold their office for two years, and the other half for four years. At the first meeting after their election and qualification, or as soon thereafter as practicable, the said commissioners shall determine by lot which of their number shall hold office for two and four years respectively; and thereafter there shall be elected as aforesaid, at each general election for county officers, county commissioners for four years to fill the places of those whose term has expired. The said commissioners shall exercise such powers and perform such duties (which shall be similar throughout the State) as are now or may hereafter be prescribed by law. Their number in each county, and their compensation, their powers and duties, may at any time hereafter be changed and regulated by the general assembly.

SEC. 6. The general assembly shall provide by law for the appointment of road supervisors in the several counties by the county commissioners, and the number of said supervisors, as well as their powers and duties in the several counties, shall be determined by the said county commissioners.

SEC. 7. The qualified voters of each county and of the city of Baltimore shall, on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-five, and every two years thereafter, elect a surveyor for the counties and city of Baltimore, respectively, whose term of office shall commence on the first Monday of January next ensuing their election, and whose duties and compensation shall be the same as are now or may hereafter be prescribed by law. Any vacancy in the office of surveyor shall be filled by the commissioners of the counties or by the mayor and city council of Baltimore, respectively, for the residue of the term.

SEC. 8. The qualified voters of Worcester County shall, on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-five, and every two years thereafter, elect a wreck-master for said county, whose duties and compensation shall be the same as are now or may be hereafter prescribed by law; the term of office of said wreck-master shall commence on the first Monday of January next preceding his election, and a vacancy in said office shall be filled by the county commissioners of said county for the residue of the term.

SEC. 9. The general assembly may provide by law for the election or appointment of such other officers as may be required, and are not herein provided for, and prescribe their tenure of office, powers, and duties.

ARTICLE VIII.

EDUCATION.

SECTION 1. The governor shall, within thirty days after the ratification by the people of this constitution, appoint, subject to the confirmation of the senate, at its first session thereafter, a State superintendent of public instruction, who shall hold his office for four years and until his successor shall have been appointed and shall have qualified. He shall receive an annual salary of twenty-five hundred dollars, and

such additional sum for travelling and incidental expenses as the general assembly may by law allow; shall report to the general assembly, within thirty days after the commencement of its first session under this constitution, a uniform system of free public schools, and shall perform such other duties pertaining to his office as may from time to time be prescribed by law.

SEC. 2. There shall be a State board of education, consisting of the governor, the lieutenant-governor, and speaker of the house of delegates, and the State superintendent of public instruction, which board shall perform such duties as the general assembly may direct.

SEC. 3. There shall be in each county such number of school commissioners as the State superintendent of public instruction shall deem necessary, who shall be appointed by the State board of education; shall hold office for four years, and shall perform such duties and receive such compensation as the general assembly or State superintendent may direct; the school commissioners of Baltimore City shall remain as at present constituted, and shall be appointed, as at present, by the mayor and city council, subject to such alterations and amendments as may be made from time to time by the general assembly, or the said mayor and city council.

SEC. 4. The general assembly, at its first session after the adoption of this constitution, shall provide a uniform system of free public schools, by which a school shall be kept open and supported free of expense for tuition in each school-district, for at least six months in each year; and in case of a failure on the part of the general assembly so to provide, the system reported to it by the State superintendent of public instruction shall become the system of free public schools of the State: *Provided*, That the report of the State superintendent shall be in conformity with the provisions of this constitution, and such system shall be subject to such alterations, conformable to this article, as the general assembly may from time to time enact.

SEC. 5. The general assembly shall levy at each regular session after the adoption of this constitution an annual tax of not less than ten cents on each one hundred dollars of taxable property throughout the State, for the support of the free public schools, which tax shall be collected at the same time and by the same agents as the general State levy; and shall be paid into the treasury of the State, and shall be distributed, under such regulations as may be prescribed by law, among the counties and the city of Baltimore, in proportion to their respective population between the ages of five and twenty years: *Provided*, That the general assembly shall not levy any additional school-tax upon particular counties, unless such county express by popular vote its desire for such tax. The city of Baltimore shall provide for its additional school-tax as at present, or as may hereafter be provided by the general assembly, or by the mayor and city council of Baltimore.

SEC. 6. The general assembly shall further provide by law, at its first session after the adoption of this constitution, a fund for the support of the free public schools of the State, by the imposition of an annual tax of not less than five cents on each one hundred dollars of taxable property throughout the State, the proceeds of which tax shall be known as the public-school fund, and shall be invested by the treasurer, together with its annual interest, until such time as said fund shall, by its own increase and any additions which may be made to it from time to time, together with the present school-fund, amount to six millions of dollars, when the tax of ten cents in the hundred dollars authorized by the preceding section may be discontinued in whole or in part, as the general assembly may direct. The principal fund of six millions hereby provided shall remain forever inviolate as the free public-school fund of the State, and the annual interest of said school-fund shall be disbursed for educational purposes only, as may be prescribed by law.

ARTICLE IX.

MILITIA AND MILITARY AFFAIRS.

SECTION 1. The militia shall be composed of all able-bodied male citizens, residents of this State, being eighteen years of age, and under the age of forty-five years, who shall be enrolled in the militia, and perform military duty in such manner, not

incompatible with the constitution and laws of the United States, as may be prescribed by the general assembly of Maryland; but persons whose religious opinions and conscientious scruples forbid them to bear arms shall be relieved from doing so on producing to the proper authorities satisfactory proof that they are thus conscientious.

SEC. 2. The general assembly shall provide at its first session after the adoption of this constitution, and from time to time thereafter, as the exigency may require, for organizing, equipping, and disciplining the militia in such a manner, not incompatible with the laws of the United States, as shall be most effective to repel invasion and suppress insurrection, and shall pass such laws as shall promote the formation of volunteer militia associations in the city of Baltimore and in every county, and to secure them such privileges or assistance as may afford them effectual encouragement.

SEC. 3. There shall be an adjutant-general, who shall be appointed by the governor, by and with the advice and consent of the senate. He shall hold his office at the pleasure of the governor; shall perform such duties, and shall receive such compensation or emoluments as are now or may be hereafter fixed by law.

ARTICLE X.

COUNTIES AND TOWNSHIPS.

SECTION 1. The general assembly may provide for organizing new counties, locating and removing county-seats, and changing county-lines, but no new county shall be organized without the consent of a majority of the legal voters residing within the limits about to form said county, nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the limits of the lines proposed to be changed, nor shall any new county contain less than four hundred square miles nor less than ten thousand white inhabitants, nor shall any county be reduced below that amount of square miles, nor below that number of white inhabitants.

SEC. 2. The general assembly shall provide by general law for dividing the counties into townships or permanent municipal corporations, in place of the existing election-districts, prescribing their limits and confiding to them all powers necessary for the management of their public local concerns; and whenever the organization of these township corporations shall be perfected, all officers provided for in this constitution, but whose official functions shall have been superseded by such organizations shall be dispensed with, and the affairs of such townships and of the counties as affected by the action of such townships shall be transacted in such manner as the general assembly may direct.

ARTICLE XI.

AMENDMENTS OF THE CONSTITUTION.

SECTION 1. The general assembly may propose any amendment or amendments to this constitution, which shall be agreed to by three-fifths of all the members elected to both houses. Such proposed amendment or amendments, with the yeas and nays thereon, shall be entered on the journal of each house; shall be printed with the laws passed at the same session, and shall be published, by order of the governor, in all the newspapers printed in the different counties of this State, and in three newspapers printed in the city of Baltimore, (one of which shall be printed in the German language,) for at least three months preceding the next election for members of the general assembly, at which election the said proposed amendment or amendments shall be submitted to the qualified electors of the State for their confirmation or rejection; and if it shall appear to the satisfaction of the governor, from the returns of said election made to him by the proper authorities, that a majority of the qualified votes cast at said election on the proposed amendment or amendments were in favor of the said proposed amendment or amendments, he shall, by proclamation, declare said amendment or amendments to be part of the constitution of this State. When two or more amendments shall be submitted by the general assembly to the qualified

electors of the State at the same election, they shall be so submitted that the electors may vote for or against each amendment separately.

SEC. 2. Whenever two-thirds of the members elected to each branch of the general assembly shall think it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election for members of the general assembly for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the general assembly shall, at their next session, provide by law for calling the same.

The convention shall consist of as many members as both houses of the general assembly, who shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

SEC. 3. At the general election to be held in the year one thousand eight hundred and eighty-two, and in each twentieth year thereafter, the question, "Shall there be a convention to revise, alter or amend the constitution," shall be submitted to the electors of the State, and in any case a majority of all the electors voting at such election shall decide in favor of a convention, the general assembly at its next session shall provide by law for the election of delegates and the assembling of such convention, as is provided in the preceding section; but no amendment of this constitution agreed upon by any convention assembled in pursuance of this article shall take effect until the same shall have been submitted to the electors of the State, and adopted by a majority of those voting thereof.

ARTICLE XII.

SCHEDULE.

SECTION 1. Every person holding any office created by or existing under the constitution or laws of the State, the entire amount of whose pay or compensation received for the discharge of his official duties shall exceed the yearly sum of three thousand dollars, except wherein otherwise provided by this constitution, shall keep a book in which shall be entered any sum or sums of money received by him or on his account as a payment or compensation for his performance of official duties, a copy of which entries in said book, verified by the oath of the officer by whom it is directed to be kept, shall be returned yearly to the comptroller of the State for his inspection and that of the general assembly of the State, and each of the said officers, when the amount received by him for the year shall exceed three thousand dollars, shall yearly pay over to the treasurer of the State the amount of such excess by him received, subject to such disposition thereof as the general assembly may direct; and such officer failing to comply with this requisition shall be deemed to have vacated his office and be subject to suit by the State for the amount that ought to be paid into the treasury.

SEC. 2. The several courts, except as herein otherwise provided, shall continue with like powers and jurisdiction, both at law and in equity, as if this constitution had not been adopted, and until the organization of the judicial department provided by this constitution.

SEC. 3. If at any election directed by this constitution any two or more candidates shall have the highest and an equal number of votes, a new election shall be ordered, except in cases specially provided for by this constitution.

SEC. 4. In the trial of all criminal cases, the jury shall be the judges of law as well as fact.

SEC. 5. The trial by jury of all issues of fact in civil proceedings in the several courts of law in this State, where the amount in controversy exceeds the sum of five dollars, shall be inviolably preserved.

SEC. 6. All officers, civil and military, now holding office, whether by election or appointment, under the State, shall continue to hold and exercise their offices, according to their present tenure, unless otherwise provided in this constitution, until they shall be superseded pursuant to its provisions, and until their successors be duly qualified, and the compensation of such officers which has been increased by this constitution shall take effect from the first day of January, eighteen hundred and sixty-five.



SEC. 7. General elections shall be held throughout the State on the Tuesday next after the first Monday in the month of November of each and every year; at the election held in the year eighteen hundred and sixty-four, all State officers required to be elected under this constitution during that year shall be elected, and in like manner in every second year thereafter an election shall be held for those State officers whose terms are about to expire; at the election held in the year eighteen hundred and sixty-five, all county officers required to be elected under this constitution in that year shall be elected, and in like manner in every second year thereafter an election shall be held for those county officers whose terms are about to expire: *Provided, however,* The judges of the several courts of this State, except the judges of the orphans' court, shall be elected at the regular election, whether for State or county officers, as the case may be, immediately preceding the expiration of the term of the incumbent whose place is to be filled.

VOTE ON THE CONSTITUTION.

SEC. 8. For the purpose of ascertaining the sense of the people of this State in regard to the adoption or rejection of this constitution, the governor shall issue his proclamation within five days after the adjournment of this convention, directed to the sheriff of the city of Baltimore, and to the sheriffs of the several counties of this State, commanding them to give notice, in the manner prescribed by law, that an election will be held in the city of Baltimore on the twelfth day of October, in the year eighteen hundred and sixty-four, and in the several counties of this State on the twelfth and thirteenth days of October, in the same year, at the usual places of holding elections in said city and counties, for the adoption or rejection of this constitution, which election shall be held in the said city of Baltimore on the twelfth day of October, eighteen hundred and sixty-four, between the hours of eight o'clock a. m. and five o'clock p. m., and in the said several counties of the State on the said twelfth and thirteenth days of October, eighteen hundred and sixty-four, between the hours of eight o'clock a. m. and five o'clock p. m., and the judges of election of said city, and of the several counties of the State, shall receive at said election the votes only of such electors as are qualified according to the provisions of this constitution, who may offer to vote at such election, and the said sheriffs shall also give notice on or after the twelfth day of October, eighteen hundred and sixty-four, for all elections provided for by this constitution, to be held during that year.

SEC. 9. At the said election the vote shall be by ballot, and each ballot shall describe thereon the words "For the constitution," or "Against the constitution," as the voter may select, and it shall be conducted in all respects as the general elections in this State are now conducted. The judges of election shall administer to every person offering to vote the oath or affirmation prescribed by this constitution, and should any person offering to vote refuse or decline to take said oath, he shall not be permitted to vote at such election, but the taking of such oath or affirmation shall not be deemed conclusive evidence of the right of such person to vote, and it shall be the duty of the return judges of said city, and of the several counties of the State, having counted the votes given for or against the adoption of this constitution, to certify the result thereof in the manner now prescribed by law, accompanied with a special statement that every person who has voted has taken the oath or affirmation prescribed by this constitution; and the governor, upon receiving such result, and ascertaining the aggregate vote throughout the State, including the soldiers' vote, hereinafter provided for, shall, by his proclamation, make known the same, and if a majority of the votes cast shall be for the adoption of this constitution, it shall go into effect on the first day of November, eighteen hundred and sixty-four.

SEC. 10. And the governor shall exclude from count the votes of any county or city, the return judges of which shall fail to certify in the returns, as prescribed by this schedule, that all persons who have voted have taken the oath prescribed to be taken, unless the governor shall be satisfied that such oath was actually administered, and that the failure to make the certificate has been from inadvertence or mistake.

SOLDIERS' VOTE.

SEC. 11. Any qualified voter of this State who shall be absent from the county or city of his residence by reason of being in the military service of the United States, so as not to be able to vote at home, on the adoption or rejection of this constitution, or for all State officers elected on general ticket, and for presidential electors and for members of Congress, at the election to be held on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-four, shall be entitled to vote at such elections as follows: A poll shall be opened in each company of every Maryland regiment in the service of the United States or of this State on the day appointed by this convention for taking the vote on the new constitution, or some other day not more than five days thereafter, at the quarters of the commanding officer thereof, and voters of this State belonging to such company who shall be within ten miles of such quarters on the day of election may vote at such poll; the polls shall be opened at eight o'clock a. m. and close at six o'clock p. m.; the commissioned officers of such company, or such of them as are present at the opening of the polls, shall act as judges, and any one officer shall be competent so to act, and if no officer be present, then the voters in such company present shall elect two of the voters present to act as judges of the election; before any votes are received, each of the judges shall take an oath or affirmation that he will perform the duties of judge according to law; will prevent fraud, and observe and make proper return thereof, and such oath the judges may administer to each other; the election shall be by ballot, and any voter may vote either "For the constitution" or "Against the constitution."

SEC. 12. Any qualified voter of this State who shall be absent from the city or county of his residence on the day for taking the vote on the adoption or rejection of this constitution by reason of his being in the military service of the United States, but shall be at some hospital or military post, or on duty within this State, and not with his company, may vote at the nearest poll to such place on satisfying the judges that he is a legal and qualified voter of this State.

SEC. 13. The judges may swear any one offering to vote as to his being a legal voter of this State. The judges shall take down on a poll-book or list the names of all the voters as their votes are taken, and the tickets shall be placed in a box as taken; after the polls are closed, the tickets shall be counted and strung on a thread, and the judges shall make out a certificate, which they shall sign, addressed to the governor, at Annapolis, in which they shall state they have taken the oath hereby prescribed, and shall certify the number of votes taken, and the number of votes for the constitution and against the constitution; the said certificates shall be accompanied with the names of the voters, and shall be plainly expressed, but no particular words shall be required.

SEC. 14. The judges shall, as soon as possible, transmit said returns, with the tickets so strung, to the governor, who shall receive the return of the soldiers' vote, and shall cast up the same and judge of the genuineness and correctness of the returns, and may recount the threaded tickets so as to satisfy himself, and the governor shall count said vote with the aggregate vote of the State on the adoption or rejection of this constitution, and shall wait for fifteen days after the day on which the State vote is taken, so as to allow the returns of the soldiers' vote to be made before the result of the whole vote is announced. The governor shall receive the returns of the soldiers' vote on said election for State officers, presidential electors, and members of Congress, and shall count the same with the aggregate home vote on State officers, and the aggregate home vote in each district respectively for members of Congress.

SEC. 15. The governor shall make known to the officers of the State regiments the provisions of this article of the schedule, and request them to exercise the rights hereby conferred upon them, and shall take all means proper to secure the soldiers' vote; and the general assembly, at its first session after the adoption of this constitution, shall make proper appropriation to pay any expense that may arise herein.

SEC. 16. If this constitution shall be adopted by the people, the provisions contained herein for taking the soldiers' vote on the adoption of the constitution shall

apply to all elections to be held in this State until the general assembly shall provide some other mode of taking the same.

Done in convention the sixth day of September, in the year of our Lord one thousand eight hundred and sixty-four, and of the Independence of the United States the eighty-ninth.

HENRY H. GOLDSBOROUGH, *President.*

Attest: W. R. COLE, *Secretary.*

CONSTITUTION OF MARYLAND—1867.*

DECLARATION OF RIGHTS.

We, the people of the State of Maryland, grateful to Almighty God for our civil and religious liberty, and taking into our serious consideration the best means of establishing a good constitution in this State, for the sure foundation and more permanent security thereof, declare:

ARTICLE 1. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole; and they have, at all times, the inalienable right to alter, reform, or abolish their form of government in such manner as they may deem expedient.

ART. 2. The Constitution of the United States, and the laws made, or which shall be made, in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, are, and shall be, the supreme law of the State; and the judges of this State and all the people of this State are and shall be bound thereby, anything in the constitution or law of this State to the contrary notwithstanding.

ART. 3. The powers not delegated to the United States by the Constitution thereof, nor prohibited by it to the States, are reserved to the States respectively, or to the people thereof.

ART. 4. That the people of this State have the sole and exclusive right of regulating the internal government and police thereof, as a free, sovereign, and independent State.

ART. 5. That the inhabitants of Maryland are entitled to the common law of England, and the trial by jury, according to the course of that law, and to the benefit of such of the English statutes as existed on the fourth day of July, seventeen hundred and seventy-six, and which, by experience, have been found applicable to their local and other circumstances, and have been introduced, used, and practised by the courts of law or equity; and also of all acts of assembly in force on the first day of June, eighteen hundred and sixty-seven, except such as may have since expired or may be inconsistent with the provisions of this constitution, subject, nevertheless, to the revision of, and amendment or repeal by, the legislature of this State; and the inhabitants of Maryland are also entitled to all property derived to them from or under the charter granted by His Majesty Charles the First to Cæcilius Calvert, baron of Baltimore.

ART. 6. That all persons invested with the legislative or executive powers of government are the trustees of the public, and, as such, accountable for their conduct; wherefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress ineffectual, the people may, and of right ought to, reform the old or establish a new government; the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

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* This constitution was framed by a convention which met at Annapolis May 8, 1867, and completed its labors August 17, 1867. It was submitted to the people and ratified September 18, 1867, receiving 27,152 votes against 23,036 votes.

ART. 7. That the right of the people to participate in the legislature is the best security of liberty and the foundation of all free government; for this purpose elections ought to be free and frequent, and every white male citizen, having the qualifications prescribed by the constitution, ought to have the right of suffrage.

ART. 8. That the legislative, executive, and judicial powers of government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said departments shall assume or discharge the duties of any other.

ART. 9. That no power of suspending laws or the execution of laws, unless by or derived from the legislature, ought to be exercised or allowed.

ART. 10. That freedom of speech and debate, or proceedings in the legislature, ought not to be impeached in any court of judicature.

ART. 11. That Annapolis be the place of meeting of the legislature; and the legislature ought not to be convened or held at any other place but from evident necessity.

ART. 12. That for redress of grievances, and for amending, strengthening, and preserving the laws, the legislature ought to be frequently convened.

ART. 13. That every man hath a right to petition the legislature for the redress of grievances, in a peaceable and orderly manner.

ART. 14. That no aid, charge, tax, burden, or fees ought to be rated or levied under any pretence without the consent of the legislature.

ART. 15. That the levying of taxes by the poll is grievous and oppressive, and ought to be prohibited; that paupers ought not to be assessed for the support of the government; but every person in the State, or person holding property therein, ought to contribute his proportion of public taxes for the support of the government, according to his actual worth in real or personal property; yet fines, duties, or taxes may properly and justly be imposed or laid, with a political view, for the good government and benefit of the community.

ART. 16. That sanguinary laws ought to be avoided as far as it is consistent with the safety of the State; and no law to inflict cruel and unusual pains and penalties ought to be made in any case or at any time hereafter.

ART. 17. That retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; wherefore, no *ex post facto* law ought to be made, nor any retrospective oath or restriction be imposed or required.

ART. 18. That no law to attaint particular persons of treason or felony ought to be made in any case or at any time hereafter.

ART. 19. That every man, for any injury done to him in his person or property, ought to have remedy by the course of the law of the land, and ought to have justice and right freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

ART. 20. That the trial of facts, where they arise, is one of the greatest securities of the lives, liberties, and estate of the people.

ART. 21. That in all criminal prosecutions, every man hath a right to be informed of the accusation against him; to have a copy of the indictment or charge in due time, if required, to prepare for his defence; to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

ART. 22. That no man ought to be compelled to give evidence against himslf in a criminal case.

ART. 23. That no man ought to be taken or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the judgment of his peers by the law of the land.

ART. 24. That slavery shall not be reëstablished in this State; but having been abolished, under the policy and authority of the United States, compensation, in consideration thereof, is due from the United States.

ART. 25. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted by the courts of law.

ART. 26. That all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.

ART. 27. That no conviction shall work corruption of blood or forfeiture of estate.

ART. 28. That a well-regulated militia is the proper and natural defence of a free government.

ART. 29. That standing armies are dangerous to liberty, and ought not to be raised or kept up without the consent of the legislature.

ART. 30. That in all cases, and at all times, the military ought to be under strict subordination to, and control of, the civil power.

ART. 31. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

ART. 32. That no person except regular soldiers and marines, and mariners in the service of this State, or militia, when in actual service, ought, in any case, to be subject to or punishable by martial law.

ART. 33. That the independency and uprightness of judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people; wherefore, the judges shall not be removed, except in the manner and for the causes provided in this constitution. No judge shall hold any other office, civil or military, or political trust or employment of any kind whatsoever, under the constitution or laws of this State, or of the United States, or any of them; or receive fees or perquisites of any kind, for the discharge of his official duties.

ART. 34. That a long continuance in the executive departments of power or trust is dangerous to liberty; a rotation, therefore, in those departments is one of the best securities of permanent freedom.

ART. 35. That no person shall hold, at the same time, more than one office of profit, created by the constitution or laws of this State; nor shall any person in public trust receive any present from any foreign prince or state, or from the United States, or any of them, without the approbation of this State.

ART. 36. That as it is the duty of every man to worship God in such manner as he thinks most acceptable to Him, all persons are equally entitled to protection in their religious liberty; wherefore, no person ought, by any law, to be molested in his person or estate on account of his religious persuasion or profession, or for his religious practice, unless, under the color of religion, he shall disturb the good order, peace, or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil, or religious rights; nor ought any person to be compelled to frequent or maintain or contribute, unless on contract, to maintain any place of worship, or any ministry; nor shall any person, otherwise competent, be deemed incompetent as a witness, or juror, on account of his religious belief: *Provided*, He believes in the existence of God, and that, under His dispensation, such person will be held morally accountable for his acts, and be rewarded or punished therefor, either in this world or the world to come.

ART. 37. That no religious test ought ever to be required as a qualification for any office of profit or trust in this State, other than a declaration of belief in the existence or God; nor shall the legislature prescribe any other oath of office than the oath prescribed by this constitution.

ART. 38. That every gift, sale, or devise of land, to any minister, public teacher, or preacher of the gospel, as such, or to any religious sect, order, or denomination, or to, or for the support, use, or benefit of, or in trust for, any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination; and every gift or sale of goods, or chattels, to go in succession, or to take place after the death of the seller or donor, to or for such support, use, or benefit; and also every devise of goods, or chattels, to or for the support, use, or benefit of any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination, without the prior or subsequent sanction of the legislature, shall be void; except always any sale, gift, lease, or devise of any quantity of land, not exceeding

five acres, for a church, meeting-house, or other house of worship, or parsonage, or for a burying-ground, which shall be improved, enjoyed, or used only for such purpose; or such sale, gift, lease, or devise shall be void.

ART. 39. That the manner of administering an oath or affirmation to any person ought to be such as those of the religious persuasion, profession, or denomination of which he is a member generally esteem the most effectual confirmation by the attestation of the Divine Being.

ART. 40. That the liberty of the press ought to be inviolably preserved; that every citizen of the State ought to be allowed to speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that privilege.

ART. 41. That monopolies are odious, contrary to the spirit of a free government and the principles of commerce, and ought not to be suffered.

ART. 42. That no title of nobility or hereditary honors ought to be granted in this State.

ART. 43. That the legislature ought to encourage the diffusion of knowledge and virtue, the extension of a judicious system of general education, the promotion of literature, the arts, sciences, agriculture, commerce, and manufactures, and the general melioration of the condition of the people.

ART. 44. That the provisions of the Constitution of the United States and of this State apply as well in time of war as in time of peace; and any departure therefrom, or violation thereof, under the plea of necessity, or any other plea, is subversive of good government, and tends to anarchy and despotism.

ART. 45. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ARTICLE I.

ELECTIVE FRANCHISE.

SECTION. 1. All elections shall be by ballot; and every white male citizen of the United States, of the age of twenty-one years or upward, who has been a resident of the State for one year, and of the legislative district of Baltimore City, or of the county in which he may offer to vote, for six months next preceding the election, shall be entitled to vote in the ward or election-district in which he resides, at all elections hereafter to be held in this State; and, in case any county or city shall be so divided as to form portions of different electoral districts for the election of Representatives in Congress, senators, delegates, or other officers, then, to entitle a person to vote for such officer, he must have been a resident of that part of the county or city which shall form a part of the electoral district in which he offers to vote for six months next preceding the election; but a person who shall have acquired a residence in such county or city, entitling him to vote at any such election, shall be entitled to vote in the election-district from which he removed until he shall have acquired a residence in the part of the county or city to which he has removed.

SEC. 2. No person above the age of twenty-one years, convicted of larceny or other infamous crime, unless pardoned by the governor, shall ever thereafter be entitled to vote at any election in this State; and no person under guardianship as a lunatic, or as a person *non compos mentis*, shall be entitled to vote.

SEC. 3. If any person shall give or offer to give, directly or indirectly, any bribe, present, or reward, or any promise, or any security for the payment or the delivery of money, or any other thing, to induce any voter to refrain from casting his vote, or to prevent him, in any way, from voting, or to procure a vote for any candidate or person proposed or voted for as elector of President and Vice-President of the United States, or Representative in Congress, or for any office of profit or trust created by the constitution or laws of this State, or by the ordinances or authority of the mayor and city council of Baltimore, the person giving, or offering to give, and the person receiving the same, and any person who gives or causes to be given an illegal vote, knowing it to be such, at any election to be hereafter held in this State, shall, on conviction in a court of law, in addition to the penalties now or hereafter to be imposed by law, be forever disqualified to hold any office of profit or trust, or to vote at any election thereafter.

SEC. 4. It shall be the duty of the general assembly to pass laws to punish, with fine

and imprisonment, any person who shall remove into any election district or precinct of any ward of the city of Baltimore, not for the purpose of acquiring a *bona-fide* residence therein, but for the purpose of voting at an approaching election, or who shall vote in any election district or ward in which he does not reside, except in the case provided for in this article, or shall, at the same election, vote in more than one election district or precinct, or shall vote, or offer to vote, in any name not his own, or in place of any other person of the same name, or shall vote in any county in which he does not reside.

SEC. 5. The general assembly shall provide by law for a uniform registration of the names of all the voters in this State who possess the qualifications prescribed in this article, which registration shall be conclusive evidence to the judges of election of the right of every person thus registered to vote at any election thereafter held in this State; but no person shall vote at any election, Federal or State, hereafter to be held in this State, or at any municipal election in the city of Baltimore, unless his name appears in the list of registered voters, and until the general assembly shall hereafter pass an act for the registration of the names of voters, the law in force on the first day of June, in the year eighteen hundred and sixty-seven, in reference thereto, shall be continued in force, except so far as it may be inconsistent with the provisions of this constitution; and the registry of voters, made in pursuance thereof, may be corrected, as provided in said law; but the names of all persons shall be added to the list of qualified voters by the officers of registration, who have the qualifications prescribed in the first section of this article, and who are not disqualified under the provisions of the second and third sections thereof.

SEC. 6. Every person elected or appointed to any office of profit or trust under this constitution, or under the laws made pursuant thereto, shall, before he enters upon the duties of such office, take and subscribe the following oath or affirmation: "I, —————, do swear [or affirm, as the case may be] that I will support the Constitution of the United States, and that I will be faithful and bear true allegiance to the State of Maryland, and support the constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of ——— according to the constitution and laws of the State, and [if a governor, senator, member of the house of delegates, or judge] that I will not directly or indirectly receive the profits or any part of the profits of any other office during the term of my acting as ———.

SEC. 7. Every person hereafter elected or appointed to office in this State who shall refuse or neglect to take the oath or affirmation of office provided for in the sixth section of this article shall be considered as having refused to accept the said office, and a new election or appointment shall be made, as in case of refusal to accept or resignation of an office; and any person violating said oath shall, on conviction thereof in a court of law, in addition to the penalties now or hereafter to be imposed by law, be thereafter incapable of holding any office of profit or trust in this State.

ARTICLE II.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive power of the State shall be vested in a governor, whose term of office shall commence on the second Wednesday of January next ensuing his election, and continue for four years, and until his successor shall have qualified; but the governor chosen at the first election under this constitution shall not enter upon the discharge of the duties of the office until the expiration of the term for which the present incumbent was elected, unless the said office shall become vacant by death, resignation, removal from the State, or other disqualification of the said incumbent.

SEC. 2. An election for governor, under this constitution, shall be held on the Tuesday next after the first Monday of November, in the year eighteen hundred and sixty-seven, and on the same day and month in every fourth year thereafter, at the place of voting for delegates to the general assembly; and every person qualified to vote for delegates shall be qualified and entitled to vote for governor; the election to

be held in the same manner as the election of delegates, and the returns thereof, under seal, to be addressed to the speaker of the house of delegates, and inclosed and transmitted to the secretary of state, and delivered to said speaker at the commencement of the session of the general assembly next ensuing said election.

SEC. 3. The speaker of the house of delegates shall then open the said returns in the presence of both houses, and the person having the highest number of votes, and being constitutionally eligible, shall be the governor, and shall qualify, in the manner herein prescribed, on the second Wednesday of January next ensuing his election, or as soon thereafter as may be practicable.

SEC. 4. If two or more persons shall have the highest and an equal number of votes for governor, one of them shall be chosen governor by the senate and house of delegates; and all questions in relation to the eligibility of governor, and to the returns of said election, and to the number and legality of votes therein given, shall be determined by the house of delegates; and if the person or persons having the highest number of votes be ineligible, the governor shall be chosen by the senate and house of delegates. Every election of governor by the general assembly shall be determined by a joint majority of the senate and house of delegates; and the vote shall be taken *viva voce*. But if two or more persons shall have the highest and an equal number of votes, then a second vote shall be taken, which shall be confined to the persons having an equal number; and if the vote should again be equal, then the election of governor shall be determined by lot between those who shall have the highest and an equal number on the first vote.

SEC. 5. A person to be eligible to the office of governor must have attained the age of thirty years, and must have been for ten years a citizen of the State of Maryland, and for five years next preceding his election a resident of the State, and at the time of his election a qualified voter therein.

SEC. 6. In case of the death or resignation of the governor, or of his removal from the State, or other disqualification, the general assembly, if in sesson, or if not, at their next session, shall elect some other qualified person to be governor for the residue of the term for which the said governor had been elected.

SEC. 7. In case of any vacancy in the office of governor, during the recess of the legislature, the president of the senate shall discharge the duties of said office until a governor is elected, as herein provided for; and in case of the death or resignation of the said president, or of his removal from the State, or of his refusal to serve, then the duties of said office shall, in like manner, and for the same interval, devolve upon the speaker of the house of delegates. And the legislature may provide by law for the impeachment of the governor; and in case of his conviction, or his inability, may declare what person shall perform the executive duties; and for any vacancy in said office not herein provided for provision may be made by law; and, if such vacancy should occur without such provision being made, the legislature shall be convened by the secretary of state, for the purpose of filling said vacancy.

SEC. 8. The governor shall be the commander-in-chief of the land and naval forces of the State; and may call out the militia to repel invasions, suppress insurrections, and enforce the execution of the laws; but shall not take the command in person, without the consent of the legislature.

SEC. 9. He shall take care that the laws are faithfully executed.

SEC. 10. He shall nominate and, by and with the consent of the senate, appoint all civil and military officers of the State, whose appointment or election is not otherwise herein provided for, unless a different mode of appoinment be prescribed by the law creating the office.

SEC. 11. In case of any vacancy, during the recess of the senate, in any office which the governor has power to fill, he shall appoint some suitable person to said office, whose commission shall continue in force until the end of the next session of the legislature, or until some other person is appointed to the same office, whichever shall first occur; and the nomination of the person thus appointed during the recess, or of some other person in his place, shall be made to the senate within thirty days after the next meeting of the legislature.

SEC. 12. No person, after being rejected by the senate, shall be again nominated

for the same office at the same session, unless at the request of the senate, or be appointed to the same office during the recess of the legislature.

SEC. 13. All civil officers appointed by the governor and senate shall be nominated to the senate within fifty days from the commencement of each regular session of the legislature; and their term of office, except in cases otherwise provided for in this constitution, shall commence on the first Monday of May next ensuing their appointment, and continue for two years, (unless removed from office,) and until their successors respectively qualify according to law; but the term of office of the inspectors of tobacco shall commence on the first Monday of March next ensuing their appointment.

SEC. 14. If a vacancy shall occur, during the session of the senate, in any office which the governor and senate have the power to fill, the governor shall nominate to the senate, before its final adjournment, a proper person to fill said vacancy, unless such vacancy occurs within ten days before the said final adjournment.

SEC. 15. The governor may suspend or arrest any military officer of the State for disobedience of orders or other military offence, and may remove him in pursuance of the sentence of a court-martial; and may remove for incompetency or misconduct all civil officers who receive, appointment from the executive for a term of years.

SEC. 16. The governor shall convene the legislature, or the senate alone, on extraordinary occasions; and whenever, from the presence of an enemy, or from any other cause, the seat of government shall become an unsafe place for the meeting of the legislature, he may direct their sessions to be held at some other convenient place.

SEC. 17. To guard against hasty or partial legislation and encroachments of the legislative department upon the co-ordinate executive and judicial departments, every bill which shall have passed the house of delegates and the senate shall, before it becomes a law, be presented to the governor of the State; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which house shall enter the objections at large on its journal, and proceed to reconsider the bill; if, after such reconsideration, three-fifths of the members elected to that house shall pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered, and if passed by three-fifths of the members elected to that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within six days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he signed it; unless the general assembly shall, by adjournment, prevent its return, in which case it shall not be a law.

SEC. 18. It shall be the duty of the governor semi-annually, and oftener if he deem it expedient, to examine under oath the treasurer and comptroller of the State on all matters pertaining to their respective offices, and inspect and review their bank and other account books.

SEC. 19. He shall, from to time, inform the legislature of the condition of the State, and recommend to their consideration such measures as he may judge necessary and expedient.

SEC. 20. He shall have power to grant reprieves and pardons, except in cases of impeachment, and in cases in which he is prohibited by other articles of this constitution; and to remit fines and forfeitures for offences against the State; but shall not remit the principal or interest of any debt due the State, except in cases of fines and forfeitures; and before granting a *nolle prosequi*, or pardon, he shall give notice in one or more newspapers of the application made for it, and of the day on or after which his decision will be given; and in every case in which he exercises this power, he shall report to either branch of the legislature, whenever required, the petitions, recommendations, and reasons which influenced his decision.

SEC. 21. The governor shall reside at the seat of government, and receive for his services an annual salary of four thousand five hundred dollars.

SEC. 22. The secretary of state shall be appointed by the governor, by and with the advice and consent of the senate, who shall continue in office, unless sooner re-

moved by the governor, till the end of the official term of the governor from whom he received his appointment, and receive an annual salary of two thousand dollars, and shall reside at the seat of government; and the office of private secretary shall thenceforth cease.

SEC. 23. The secretary of state shall carefully keep and preserve a record of all official acts and proceedings, which may at all times be inspected by a committee of either branch of the legislature, and he shall perform such other duties as may be prescribed by law, or as may properly belong to his office, together with all clerical duty belonging to the executive department.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislature shall consist of two distinct branches; a senate and a house of delegates, and shall be styled the general assembly of Maryland.

SEC. 2. Each county in the State, and each of the three legislative districts of Baltimore City, as they are now, or may hereafter be defined, shall be entitled to one senator, who shall be elected by the qualified voters of the counties, and of the legislative districts of Baltimore City, respectively, and shall serve for four years from the date of his election, subject to the classification of senators hereafter provided for.

SEC. 3. Until the taking and publishing of the national census, or until the enumeration of the population of this State, under the authority thereof, the several counties and the city of Baltimore shall have representation in the house of delegates as follows: Alleghany County, five delegates; Anne Arundel County, three delegates; Baltimore County, six delegates; each of the three legislative districts of the city of Baltimore, six delegates; Calvert County, two delegates; Caroline County, two delegates; Carroll County, four delegates; Cecil County, four delegates; Charles County, two delegates; Dorchester County, three delegates; Frederick County, six delegates; Harford County, four delegates; Howard County, two delegates; Kent County, two delegates; Montgomery County, three delegates; Prince George's County, three delegates; Queen Anne's County, two delegates; Saint Mary's County, two delegates; Somerset County, three delegates; Talbot County, two delegates; Washington County, five delegates; and Worcester County, three delegates.

SEC. 4. As soon as may be after the taking and publishing of the next national census, or after the enumeration of the population of this State, under the authority thereof, there shall be an apportionment of representation in the house of delegates, to be made on the following basis, to wit: Each of the several counties of the State, having a population of eighteen thousand souls or less, shall be entitled to two delegates, and every county having a population of over eighteen thousand and less than twenty-eight thousand souls shall be entitled to three delegates, and every county having a population of twenty-eight thousand and less than forty thousand souls shall be entitled to four delegates, and every county having a population of forty thousand and less than fifty-five thousand souls shall be entitled to five delegates, and every county having a population of fifty-five thousand souls and upward shall be entitled to six delegates, and no more; and each of the three legislative districts of the city of Baltimore shall be entitled to the number of delegates to which the largest county shall or may be entitled under the aforegoing apportionment. And the general assembly shall have power to provide by law, from time to time, for altering and changing the boundaries of the three existing legislative districts of the city of Baltimore, so as to make them, as near as may be, of equal population; but said districts shall always consist of contiguous territory.

SEC. 5. That immediately after the taking and publishing of the next national census, or after any State enumeration of population, as aforesaid, it shall be the duty of the governor, then being, to arrange the representation in said house of delegates, in accordance with the apportionment herein provided for, and to declare, by proclamation, the number of delegates to which each county and the city of Baltimore may be entitled under such apportionment; and after every national census taken thereafter, or after any State enumeration of population thereafter made, it shall be

the duty of the governor, for the time being, to make similar adjustment of representation, and to declare the same by proclamation, as aforesaid.

SEC. 6. The members of the house of delegates shall be elected by the qualified voters of the counties and the legislative districts of Baltimore City, respectively, to serve for two years from the day of their election.

SEC. 7. The first election for senators and delegates shall take place on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-seven; and the election for delegates, and, as nearly as practicable, for one-half of the senators, shall be held on the same day, in every second year thereafter.

SEC. 8. Immediately after the senate shall have convened, after the first election under this constitution, the senators shall be divided by lot into two classes, as nearly equal in number as may be; senators of the first class shall go out of office at the expiration of two years, and senators shall be elected on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-nine, for the term of four years, to supply their places, so that after the first election one-half of the senators may be chosen every second year. In case the number of senators be hereafter increased, such classification of the additional senators shall be made as to preserve, as nearly as may be, an equal number in each class.

SEC. 9. No person shall be eligible as senator or delegate who, at the time of his election, is not a citizen of the State of Maryland, and who has not resided therein for at least three years next preceding the day of his election, and the last year thereof in the county or in the legislative district of Baltimore City which he may be chosen to represent, if such county or legislative district of said city shall have been so long established, and if not, then in the county or city from which, in whole or in part, the same may have been formed; nor shall any person be eligible as a senator unless he shall have attained the age of twenty-five years, nor as a delegate unless he shall have attained the age of twenty-one years at the time of his election.

SEC. 10. No member of Congress or person holding any civil or military office under the United States shall be eligible as a senator or delegate; and if any person shall, after his election as senator or delegate, be elected to Congress, or be appointed to any office, civil or military, under the Government of the United States, his acceptance thereof shall vacate his seat.

SEC. 11. No minister or preacher of the gospel, or of any religious creed or denomination, and no person holding any civil office of profit or trust under this State, except justices of the peace, shall be eligible as senator or delegate.

SEC. 12. No collector, receiver, or holder of public money shall be eligible as senator or delegate, or to any office of profit or trust under this State, until he shall have accounted for and paid into the treasury all sums on the books thereof, charged to and due by him.

SEC. 13. In case of death, disqualification, resignation, refusal to act, expulsion, or removal from the county or city for which he shall have been elected, of any person who shall have been chosen as a delegate or senator, or in case of a tie between two or more such qualified persons, a warrant of election shall be issued by the speaker of the house of delegates, or president of the senate, as the case may be, for the election of another person in his place, of which election not less than ten days' notice shall be given, exclusive of the day of the publication of the notice, and of the day of election; and if during the recess of the legislature, and more than ten days before its termination, such death shall occur, or such resignation, refusal to act, or disqualification be communicated, in writing, to the governor, by the person so resigning, refusing, or disqualified, it shall be the duty of the governor to issue a warrant of election to supply the vacancy thus created, in the same manner the said speaker or president might have done during the session of the general assembly: *Provided, however*, That unless a meeting of the general assembly may intervene, the election, thus ordered to fill such vacancy, shall be held on the day of the ensuing election for delegates and senators.

SEC. 14. The general assembly shall meet on the first Wednesday of January, eighteen hundred and sixty-eight, and on the same day in every second year thereafter, and at no other time, unless convened by proclamation of the governor.

SEC. 15. The general assembly may continue its session so long as, in its judgment, the public interest may require, for a period not longer than ninety days; and each member thereof shall receive a compensation of five dollars per diem for every day he shall attend the session; but not for such days as he may be absent, unless absent on account of sickness, or by leave of the house of which he is a member; and he shall also receive such mileage as may be allowed by law, not exceeding twenty cents per mile; and the presiding officer of each house shall receive an additional compensation of three dollars per day. When the general assembly shall be convened by proclamation of the governor, the session shall not continue longer than thirty days; and, in such case, the compensation shall be the same as herein prescribed.

SEC. 16. No book or other printed matter, not appertaining to the business of the session, shall be purchased or subscribed for, for the use of the members of the general assembly, or be distributed among them at the public expense.

SEC. 17. No senator or delegate, after qualifying as such, notwithstanding he may thereafter resign, shall, during the whole period of time for which he was elected, be eligible to any office which shall have been created, or the salary or profits of which shall have been increased, during such term.

SEC. 18. No senator or delegate shall be liable in any civil action or criminal prosecution whatever, for words spoken in debate.

SEC. 19. Each house shall be judge of the qualifications and elections of its members, as prescribed by the constitution and laws of the State; shall appoint its own officers, determine the rules of its own proceedings, punish a member for disorderly or disrespectful behavior, and, with the consent of two-thirds of its whole number of members elected, expel a member; but no member shall be expelled a second time for the same offence.

SEC. 20. A majority of the whole number of members elected to each house shall constitute a quorum for the transaction of business; but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner, and under such penalties, as each house may prescribe.

SEC. 21. The doors of each house, and of the committee of the whole, shall be open, except when the business is such as ought to be kept secret.

SEC. 22. Each house shall keep a journal of its proceedings, and cause the same to be published. The yeas and nays of members on any question shall at the call of any five of them in the house of delegates, or one in the senate, be entered on the journal.

SEC. 23. Each house may punish, by imprisonment, during the session of the general assembly, any person, not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings, or any of its officers in the execution of their duties: *Provided*, Such imprisonment shall not at any one time exceed ten days.

SEC. 24. The house of delegates may inquire, on the oath of witnesses, into all complaints, grievances, and offences, as the grand inquest of the State, and may commit any person for any crime to the public jail, there to remain until discharged by due course of law. They may examine and pass all accounts of the State relating either to the collection or expenditure of the revenue, and appoint auditors to state and adjust the same. They may call for all public or official papers and records, and send for persons, whom they may judge necessary, in the course of their inquiries, concerning affairs relating to the public interest, and may direct all office bonds which shall be made payable to the State to be sued for any breach thereof; and with the view to the more certain prevention or correction of the abuses in the expenditure of the money of the State, the general assembly shall create, at every session thereof, a joint standing committee of the senate and house of delegates, who shall have power to send for persons, and examine them on oath, and call for public or official papers and records, and whose duty it shall be to examine and report upon all contracts made for printing, stationery, and purchases for the public offices and the library, and all expenditures therein, and upon all matters of alleged abuse in expenditures to which their attention may be called by resolution of either house of the general assembly.

SEC. 25. Neither house shall, without the consent of the other, adjourn for more than three days at any one time, nor adjourn to any other place than that in which the house shall be sitting, without the concurrent vote of two-thirds of the members present.

SEC. 26. The house of delegates shall have the sole power of impeachment in all cases; but a majority of all the members elected must concur in the impeachment. All impeachments shall be tried by the senate, and, when sitting for that purpose, the senators shall be on oath, or affirmation, to do justice according to the law and the evidence; but no person shall be convicted without the concurrence of two-thirds of all the senators elected.

SEC. 27. Any bill may originate in either house of the general assembly, and be altered, amended, or rejected by the other; but no bill shall originate in either house during the last ten days of the session, unless two-thirds of the members elected thereto shall so determine by yeas and nays; nor shall any bill become a law until it be read on three different days of the session in each house, unless two-thirds of the members elected to the house where such bill is pending shall so determine by yeas and nays; and no bill shall be read a third time until it shall have been actually engrossed for a third reading.

SEC. 28. No bill shall become a law unless it be passed in each house by a majority of the whole number of the members elected, and on its final passage the yeas and nays be recorded; nor shall any resolution requiring the action of both houses be passed except in the same manner.

SEC. 29. The style of all laws of this State shall be, "*Be it enacted by the general assembly of Maryland;*" and all laws shall be passed by original bill; and every law enacted by the general assembly shall embrace but one subject, and that shall be described in its title; and no law or section of a law shall be revived or amended by reference to its title or section only; nor shall any law be construed by reason of its title to grant powers or confer rights which are not expressly contained in the body of the act; and it shall be the duty of the general assembly, in amending any article or section of the code of laws of this State, to enact the same as the said article or section would read when amended. And whenever the general assembly shall enact any public general law, not amendatory of any section or article in the said code, it shall be the duty of the general assembly to enact the same in articles and sections, in the same manner as the code is arranged, and to provide for the publication of all additions and alterations which may be made to the said code.

SEC. 30. Every bill, when passed by the general assembly, and sealed with the great seal, shall be presented to the governor, who, if he approves it, shall sign the same in the presence of the presiding officers and chief clerks of the senate and house of delegates. Every law shall be recorded in the office of the court of appeals, and in due time be printed, published, and certified under the great seal to the several courts, in the same manner as has been heretofore usual in this State.

SEC. 31. No law passed by the general assembly shall take effect until the first day of June next after the session at which it may be passed, unless it be otherwise expressly declared therein.

SEC. 32. No money shall be drawn from the treasury of the State by any order or resolution, nor except in accordance with an appropriation by law, and every such law shall distinctly specify the sum appropriated and the object to which it shall be applied: *Provided*, That nothing herein contained shall prevent the general assembly from placing a contingent fund at the disposal of the executive, who shall report to the general assembly at each session the amount expended and the purposes to which it was applied. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws after each regular session of the general assembly.

SEC. 33. The general assembly shall not pass local or special laws in any of the following-enumerated cases, viz: For extending the time for the collection of taxes; granting divorces; changing the name of any person; providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities, by executors, administrators, guardians, or trustees; giving effect to informal or invalid deeds

or wills; refunding money paid into the State treasury, or releasing persons from their debts or obligations to the State, unless recommended by the governor or officers of the treasury department. And the general assembly shall pass no special law for any case for which provision has been made by an existing general law. The general assembly, at its first session after the adoption of this constitution, shall pass general laws providing for the cases enumerated in this section which are not already adequately provided for, and for all other cases where a general law can be made applicable.

SEC. 34. No debt shall be hereafter contracted by the general assembly, unless such debt shall be authorized by a law providing for the collection of an annual tax, or taxes, sufficient to pay the interest on such debt as it falls due, and also to discharge the principal thereof, within fifteen years from the time of contracting the same; and the taxes laid for this purpose shall not be repealed or applied to any other object until the said debt, and interest thereon, shall be fully discharged. The credit of the State shall not in any manner be given or loaned to or in aid of any individual, association, or corporation; nor shall the general assembly have the power in any mode to involve the State in the construction of works of internal improvement, nor in granting any aid thereto, which shall involve the faith or credit of the State; nor make any appropriation therefor, except in aid of the construction of works of internal improvement in the counties of Saint Mary's, Charles, and Calvert, which have had no direct advantage from such works as have been heretofore aided by the State; and provided that such aid, advances, or appropriations shall not exceed in the aggregate the sum of five hundred thousand dollars. And they shall not use or appropriate the proceeds of the internal-improvement companies, or of the State tax now levied, or which may hereafter be levied, to pay off the public debt, to any other purpose until the interest and debt are fully paid, or the sinking-fund shall be equal to the amount of the outstanding debt; but the general assembly may, without laying a tax, borrow an amount, never to exceed fifty thousand dollars, to meet temporary deficiencies in the treasury, and may contract debts to any amount that may be necessary for the defence of the State.

SEC. 35. No extra compensation shall be granted or allowed by the general assembly to any public officer, agent, servant, or contractor, after the service shall have been rendered, or the contract entered into; nor shall the salary or compensation of any public officer be increased or diminished during his term of office.

SEC. 36. No lottery-grant shall ever hereafter be authorized by the general assembly.

SEC. 37. The general assembly shall pass no law providing for payment by this State for slaves emancipated from servitude in this State; but they shall adopt such measures as they may deem expedient to obtain from the United States compensation for such slaves, and to receive and distribute the same equitably to the persons entitled.

SEC. 38. No person shall be imprisoned for debt.

SEC. 39. The general assembly shall grant no charter for banking purposes, nor renew any banking corporation now in existence, except upon the condition that the stockholders shall be liable to the amount of their respective share or shares of stock in such banking institution for all its debts and liabilities, upon note, bill, or otherwise. The books, papers, and accounts of all banks shall be open to inspection, under such regulations as may be prescribed by law.

SEC. 40. The general assembly shall enact no law authorizing private property to be taken for public use without just compensation, as agreed upon between the parties, or awarded by a jury, being first paid or tendered to the party entitled to such compensation.

SEC. 41. Any citizen of this State who shall, after the adoption of this constitution, either in or out of this State, fight a duel with deadly weapons, or send or accept a challenge so to do, or who shall act as a second, or knowingly aid or assist in any manner those offending, shall ever thereafter be incapable of holding any office of profit or trust under this State, unless relieved from the disability by an act of the legislature.

SEC. 42. The general assembly shall pass laws necessary for the preservation of the purity of elections.

SEC. 43. The property of the wife shall be protected from the debts of her husband.

SEC. 44. Laws shall be passed by the general assembly to protect from execution a reasonable amount of the property of the debtor, not exceeding in value the sum of five hundred dollars.

SEC. 45. The general assembly shall provide a simple and uniform system of charges in the offices of clerks of courts and registers of wills in the counties of this State and the city of Baltimore, and for the collection thereof: *Provided*, The amount of compensation to any of the said officers in the various counties shall not exceed the sum of three thousand dollars a year, and in the city of Baltimore thirty-five hundred dollars a year, over and above office expenses and compensation to assistants: *And provided further*, That such compensation of clerks, registers, assistants, and office expenses shall always be paid out of the fees or receipts of the offices, respectively.

SEC. 46. The general assembly shall have power to receive from the United States any grant or donation of land, money, or securities for any purpose designated by the United States, and shall administer or distribute the same according to the conditions of the said grant.

SEC. 47. The general assembly shall make provisions for all cases of contested elections of any of the officers not herein provided for.

SEC. 48. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and except in cases where no general laws exist providing for the creation of corporations of the same general character as the corporation proposed to be created; and any act of incorporation passed in violation of this section shall be void. And, as soon as practicable after the adoption of this constitution, it shall be the duty of the governor to appoint three persons learned in the law, whose duty it shall be to prepare draughts of general laws, providing for the creation of corporations in such cases as may be proper, and for all other cases where a general law can be made; and for revising and amending, so far as may be necessary or expedient, the general laws which may be in existence on the first day of June, eighteen hundred and sixty-seven, providing for the creation of corporations, and for other purposes; and such draughts of laws shall, by said commissioners, be submitted to the general assembly at its first meeting, for its action thereon; and each of said commissioners shall receive a compensation of five hundred dollars for his services as such commissioner.

All charters granted or adopted in pursuance of this section, and all charters heretofore granted and created, subject to repeal or modification, may be altered, from time to time, or be repealed: *Provided*, Nothing herein contained shall be construed to extend to banks or the incorporation thereof.

SEC. 49. The general assembly shall have power to regulate by law, not inconsistent with this constitution, all matters which relate to the judges of election, time, place, and manner of holding elections in this State, and of making returns thereof.

SEC. 50. It shall be the duty of the general assembly at its first session held after the adoption of this constitution, to provide by law for the punishment, by fine or imprisonment in the penitentiary, or both, in the discretion of the court, of any person who shall bribe, or attempt to bribe, any executive or judicial officer of the State of Maryland, or any member or officer of the general assembly of the State of Maryland, or of any municipal corporation in the State of Maryland, or any executive officer of such corporation, in order to influence him in the performance of any of his official duties; and also to provide by law for the punishment, by fine or imprisonment in the penitentiary, or both, in the discretion of the court, of any of said officers or members, who shall demand or receive any bribe, fee, reward, or testimonial for the performance of his official duties, or for neglecting or failing to perform the same; and also to provide by law for compelling any person so bribing or attempting to bribe, or so demanding or receiving a bribe, fee, reward, or testimonial, to testify against any person or persons who may have committed any of said

offences: *Provided*, That any person so compelled to testify shall be exempted from trial and punishment for the offence of which he may have been guilty; and any person convicted of such offence shall, as part of the punishment thereof, be forever disfranchised and disqualified from holding any office of trust or profit in this State.

SEC. 51. The personal property of residents of this State shall be subject to taxation in the county or city where the resident (*bona fide*) resides for the greater part of the year, for which the tax may or shall be levied, and not elsewhere, except goods and chattels permanently located, which shall be taxed in the city or county where they are so located.

SEC. 52. The general assembly shall appropriate no money out of the treasury for payment of any private claim against the State exceeding three hundred dollars, unless said claim shall have been first presented to the comptroller of the treasury, together with the proofs upon which the same is founded, and reported upon by him.

SEC. 53. No person shall be incompetent as a witness on account of race or color, unless hereafter so declared by act of the general assembly.

SEC. 54. No county of this State shall contract any debt or obligation, in the construction of any railroad, canal, or other work of internal improvement, nor give or loan its credit to or in aid of any association or corporation, unless authorized by an act of the general assembly, which shall be published for two months before the next election for members of the house of delegates, in the newspapers published in such county, and shall also be approved by a majority of all the members elected to each house of the general assembly at its next session after said election.

SEC. 55. The general assembly shall pass no law suspending the privilege of the writ of *habeas corpus*.

SEC. 56. The general assembly shall have power to pass all such laws as may be necessary and proper for carrying into execution the powers vested, by this constitution, in any department or office of the government, and the duties imposed upon them thereby.

SEC. 57. The legal rate of interest shall be six per cent. per annum, unless otherwise provided by the general assembly.

SEC. 58. The legislature at its first session after the ratification of this constitution shall provide by law for State and municipal taxation upon the revenues accruing from business done in the State by all foreign corporations.

SEC. 59. The office of State pension commissioner is hereby abolished; and the legislature shall pass no law creating such office, or establishing any general pension system with this State.

ARTICLE IV.

JUDICIARY DEPARTMENT.

PART I.—*General provisions.*

SECTION 1. The judicial power of this State shall be vested in a court of appeals, circuit courts, orphans' courts, such courts for the city of Baltimore as are hereinafter provided for, and justices of the peace; all said courts shall be courts of record, and each shall have a seal, to be used in the authentication of all process issuing therefrom. The process and official character of justices of the peace shall be authenticated as hath heretofore been practised in this State or may hereafter be prescribed by law.

SEC. 2. The judges of all of the said courts shall be citizens of the State of Maryland, and qualified voters under this constitution, and shall have resided therein not less than five years, and not less than six months next preceding their election or appointment in the judicial circuit, as the case may be, for which they may be, respectively, elected or appointed. They shall be not less than thirty years of age at the time of their election or appointment, and shall be selected from those who have been admitted to practise law in this State, and who are most distinguished for integrity, wisdom, and sound legal knowledge.

SEC. 3. The judges of the said several courts shall be elected in the counties by the qualified voters in their respective judicial circuits, as hereinafter provided, at the general election to be held on the Tuesday after the first Monday in November next, and in the city of Baltimore on the fourth Wednesday of October next. Each of

the said judges shall hold his office for the term of fifteen years from the time of his election, and until his successor is elected and qualified, or until he shall have attained the age of seventy years, whichever may first happen, and be reëligible thereto until he shall have attained the age of seventy years, and not after; but in case of any judge who shall have attained the age of seventy years while in office, such judge may be continued in office by the general assembly for such further time as they may think fit, not to exceed the term for which he was elected, by a resolution to be passed at the session next preceding his attaining said age. In case of the inability of any of said judges to discharge his duties with efficiency, by reason of continued sickness or of physical or mental infirmity, it shall be in the power of the general assembly, two-thirds of the members of each house concurring, with the approval of the governor, to retire said judge from office.

SEC. 4. Any judge shall be removed from office by the governor on conviction in a court of law of incompetency, of wilful neglect of duty, misbehavior in office, or any other crime, or on impeachment, according to this constitution or the laws of the State, or on the address of the general assembly, two-thirds of each house concurring in such address, and the accused having been notified of the charges against him, and having had opportunity of making his defence.

SEC. 5. After the election for judges to be held as above mentioned, upon the expiration of the term, or in case of the death, resignation, removal, or other disqualification of any judge, the governor shall appoint a person duly qualified to fill said office, who shall hold the same until the next general election for members of the general assembly, when a successor shall be elected, whose tenure of office shall be the same as hereinbefore provided; but if the vacancy shall occur in the city of Baltimore, the time of election shall be the fourth Wednesday in October following.

SEC. 6. All judges shall, by virtue of their offices, be conservators of the peace throughout the State; and no fees or perquisites, commission or reward, of any kind shall be allowed to any judge in this State, besides his annual salary, for the discharge of any judicial duty.

SEC. 7. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity, within such degrees as now are or may hereafter be prescribed by law, or where he shall have been of counsel in the case.

SEC. 8. The parties to any cause may submit the same to the court for determination without the aid of a jury; and the judge or judges of any court of this State, except the court of appeals, shall order and direct the record of proceedings in any suit or action, issue or petition, presentment or indictment, pending in such court, to be transmitted to some other court (and of a different circuit, if the party applying shall so elect) having jurisdiction in such cases, whenever any party to such cause, or the counsel of any party, shall make a suggestion in writing, supported by the affidavit of such party, or his counsel, or other proper evidence, that the party cannot have a fair or impartial trial in the court in which such suit or action, issue or petition, presentment or indictment is pending, or when the judges of said court shall be disqualified under the provisions of this constitution to sit in any such suit, action, issue, or petition, presentment or indictment; and the general assembly shall make such modifications of existing law as may be necessary to regulate and give force to this provision.

SEC. 9. The judge or judges of any court may appoint such officers for their respective courts as may be found necessary; and such officers of the courts in the city of Baltimore shall be appointed by the judges of the supreme bench of Baltimore City. It shall be the duty of the general assembly to prescribe by law a fixed compensation for all such officers; and said judge or judges shall, from time to time, investigate the expenses, costs, and charges of their respective courts, with a view to a change or reduction thereof, and report the result of such investigation to the general assembly for its action.

SEC. 10. The clerks of the several courts, created or continued by this constitution, shall have charge and custody of the records and other papers, shall perform all the duties and be allowed the fees which appertain to their several offices, as the same

now are, or may hereafter be regulated by law. And the office and business of said clerks in all their departments shall be subject to the visitorial power of the judges of their respective courts, who shall exercise the same from time to time, so as to insure the faithful performance of the duties of said officers; and it shall be the duty of the judges of said courts respectively to make, from time to time, such rules and regulations as may be necessary and proper for the government of said clerks, and for the performance of the duties of their offices, which shall have the force of law until repealed or modified by the general assembly.

SEC. 11. The election for judges, hereinbefore provided, and all elections for clerks, registers of wills, and other officers provided in this constitution, except State's attorneys, shall be certified, and the returns made by the clerks of the circuit courts of the counties and the clerk of the superior court of Baltimore City respectively, to the governor, who shall issue commissions to the different persons for the offices to which they shall have been, respectively, elected; and in all such elections, the persons having the greatest number of votes shall be declared to be elected.

SEC. 12. If in any case of election for judges, clerks of the courts of law, and registers of wills, the opposing candidates shall have an equal number of votes, it shall be the duty of the governor to order a new election; and in case of any contested election, the governor shall send the returns to the house of delegates, which shall judge of the election and qualification of the candidates at such election; and if the judgment shall be against the one who has been returned elected, or the one who has been commissioned by the governor, the house of delegates shall order a new election within thirty days.

SEC. 13. All public commissions and grants shall run thus: "The State of Maryland," &c., and shall be signed by the governor, with the seal of the State annexed; all writs and process shall run in the same style, and be tested, sealed, and signed, as heretofore, or as may hereafter be provided by law, and all indictments shall conclude, "against the peace, government, and dignity of the State."

PART II.—*Court of Appeals.*

SEC. 14. The court of appeals shall be composed of the chief judges of the first seven of the several judicial circuits of the State, and a judge from the city of Baltimore specially elected thereto, one of whom shall be designated by the governor, by and with the advice and consent of the senate, as the chief judge; and in all cases, until action by the senate can be had, the judge so designated by the governor shall act as chief judge. The judge of the court of appeals from the city of Baltimore shall be elected by the qualified voters of said city, at the election of judges to be held therein, as hereinbefore provided; and in addition to his duties as judge of the court of appeals shall perform such other duties as the general assembly shall prescribe. The jurisdiction of said court of appeals shall be coextensive with the limits of the State, and such as now is or may hereafter be prescribed by law. It shall hold its sessions in the city of Annapolis, on the first Monday in April and the first Monday in October of each and every year, or at such other times as the general assembly may by law direct. Its sessions shall continue not less than ten months in the year, if the business before it shall so require; and it shall be competent for the judges temporarily to transfer their sittings elsewhere, upon sufficient cause.

SEC. 15. Four of said judges shall constitute a quorum; no cause shall be decided without the concurrence of at least three; but the judge who heard the cause below shall not participate in the decision; in every case an opinion in writing shall be filed within three months after the argument or submission of the cause; and the judgment of the court shall be final and conclusive, and all cases shall stand for hearing at the first term after the transmission of the record.

SEC. 16. Provision shall be made by law for publishing reports of all causes argued and determined in the court of appeals which the judges shall designate as proper for publication.

SEC. 17. There shall be a clerk of the court of appeals, who shall be elected by the legal and qualified voters of the State, who shall hold his office for six years, and



until a successor is duly qualified; he shall be subject to removal by the said court for incompetency, neglect of duty, misdemeanor in office, or such other cause or causes as may be prescribed by law; and in case of a vacancy in the office of said clerk, the court of appeals shall appoint a clerk of said court, who shall hold his office until the election and qualification of his successor, who shall be elected at the next general election for members of the general assembly, and the person so elected shall hold his office for the term of six years from the time of election.

SEC. 18. It shall be the duty of the judges of the court of appeals, as soon after their election, under this constitution, as practicable, to make and publish rules and regulations for the prosecution of appeals to said appellate court, whereby they shall prescribe the periods within which appeals may be taken, what part or parts of the proceedings in the court below shall constitute the record on appeal, and the manner in which such appeals shall be brought to hearing or determination, and shall regulate, generally, the practice of said court of appeals, so as to prevent delays and promote brevity in all records and proceedings brought into said court, and to abolish and avoid all unnecessary costs and expenses in the prosecution of appeals therein, and the said judges shall make such reductions in the fees and expenses of the said court as they may deem advisable. It shall also be the duty of said judges of the court of appeals, as soon after their election as practicable, to devise and promulgate, by rules or orders, forms and modes of framing and filing bills, answers, and other proceedings and pleadings in equity, and also forms and modes of taking and obtaining evidence to be used in equity cases, and to revise and regulate, generally, the practice in the courts of equity of this State, so as to prevent delays and to promote brevity and conciseness in all pleadings and proceedings therein, and to abolish all unnecessary costs and expenses attending the same. And all rules and regulations hereby directed to be made shall, when made, have the force of law, until rescinded, changed, or modified by the said judges or the general assembly.

PART III.—*Circuit Courts.*

SEC. 19. The State shall be divided into eight judicial districts, in manner following, viz: The counties of Worcester, Somerset, and Dorchester shall constitute the first circuit; the counties of Caroline, Talbot, Queen Anne's, Kent, and Cecil, the second; the counties of Baltimore and Harford, the third; the counties of Alleghany and Washington, the fourth; the counties of Carroll, Howard, and Anne Arundel, the fifth; the counties of Montgomery and Frederick, the sixth; the counties of Prince George's, Charles, Calvert, and Saint Mary's, the seventh; and Baltimore City, the eighth.

SEC. 20. A court shall be held in each county of the State, to be styled the circuit court for the county in which it may be held. The said circuit courts shall have and exercise in the respective counties all the power, authority, and jurisdiction, original and appellate, which the present circuit courts of this State now have and exercise, or which may hereafter be prescribed by law.

SEC. 21. For each of the said circuits (excepting the eighth) there shall be a chief judge and two associate judges, to be styled judges of the circuit court, to be elected or appointed as herein provided. And no two of said associate judges shall, at the time of their election or appointment, or during the term for which they may have been elected or appointed, reside in the same county. If two or more persons shall be candidates for associate judge in the same county, that one only in said county shall be declared elected who has the highest number of votes in the circuit. In case any two candidates for associate judge, residing in the same county, shall have an equal number of votes, greater than any other candidate for associate judge in the circuit, it shall be the duty of the governor to order a new election for one associate judge; but the person residing in any other county of the circuit and who has the next highest number of votes shall be declared elected. The said judges shall hold not less than two terms of the circuit court in each of the counties composing their respective circuits, at such times as are now or may hereafter be prescribed, to which jurors shall be summoned, and in those counties where only two such terms are held, two other and intermediate terms to which jurors shall not be summoned; they may alter

or fix the times for holding any or all terms until otherwise prescribed, and shall adopt rules to the end that all business not requiring the interposition of a jury shall be, as far as practicable, disposed of at said intermediate terms. One judge, in each of the above circuits, shall constitute a quorum for the transaction of any business, and the said judges, or any of them, may hold special terms of their courts whenever, in their discretion, the business of the several counties renders such terms necessary.

SEC. 22. Where any term is held or trial conducted by less than the whole number of said circuit judges, upon the decision or determination of any point or question by the court, it shall be competent to the party against whom the ruling or decision is made, upon motion, to have the point or question reserved for the consideration of the three judges of the circuit, who shall constitute a court in banc for such purpose; and the motion for such reservation shall be entered of record during the sitting at which such decision may be made; and the several circuit courts shall regulate, by rules, the mode and manner of presenting such points or questions to the court in banc, and the decision of the said court in banc shall be the effective decision in the premises, and conclusive as against the party at whose motion said points or question were reserved; but such decision in banc shall not preclude the right of appeal or writ of error to the adverse party in those cases, civil or criminal, in which appeal or writ of error to the court of appeals may be allowed by law. The right of having questions reserved shall not, however, apply to trials of appeals from judgments of justices of the peace, nor to criminal cases below the grade of felony, except when the punishment is confinement in the penitentiary; and this section shall be subject to such provisions as may hereafter be made by law.

SEC. 23. The judges of the respective circuit courts of this State, and of the courts of Baltimore City, shall render their decisions in all cases argued before them or submitted for their judgment, within two months after the same shall have been so argued or submitted.

SEC. 24. The salary of each chief judge, and of the judge of the court of appeals from the city of Baltimore, shall be three thousand five hundred dollars, and of each associate judge of the circuit court shall be two thousand eight hundred dollars per annum, payable quarterly, and shall not be diminished during his continuance in office.

SEC. 25. There shall be a clerk of the circuit court for each county, who shall be elected by a plurality of the qualified voters of said county, and shall hold his office for six years from the time of his election, and until his successor is elected and qualified, and be reeligible, subject to be removed for wilful neglect of duty, or other misdemeanor in office, on conviction in a court of law. In case of a vacancy in the office of clerk of a circuit court, the judges of said court shall have power to fill such vacancy until the general election for delegates to the general assembly to be held next thereafter, when a successor shall be elected for the term of six years.

SEC. 26. The said clerks shall appoint, subject to the confirmation of the judges of their respective courts, as many deputies under them as the said judges shall deem necessary to perform, together with themselves, the duties of the said office, who shall be removable by the said judges for incompetency or neglect of duty, and whose compensation shall be according to existing or future provisions of the general assembly.

PART IV.—*Courts of Baltimore City.*

SEC. 27. There shall be in the eighth judicial circuit six courts, to be styled the supreme bench of Baltimore City, the superior court of Baltimore City, the court of common pleas, the Baltimore City court, the circuit court of Baltimore City, and the criminal court of Baltimore.

SEC. 28. The superior court of Baltimore City, the court of common pleas, and the Baltimore City court, shall each have concurrent jurisdiction in all civil common-law cases, and concurrently, all the jurisdiction which the superior court of Baltimore City, and the court of common pleas now have, except jurisdiction in equity, and except in applications for the benefit of the insolvent laws of Maryland, and in cases of appeal from judgments of justices of the peace in said city, whether civil or criminal,



or arising under the ordinances of the mayor and city council of Baltimore, of all of which appeal cases the Baltimore City court shall have exclusive jurisdiction, and the said court of common pleas shall have exclusive jurisdiction in all applications for the benefit of the insolvent laws of Maryland, and the supervision and control of the trustees thereof.

SEC. 29. The circuit court of Baltimore City shall have exclusive jurisdiction in equity within the limits of said city, and all such jurisdiction as the present circuit court of Baltimore City has: *Provided*, The said court shall not have jurisdiction in applications for the writ of *habeas corpus* in cases of persons charged with criminal offences.

SEC. 30. The criminal court of Baltimore shall have and exercise all the jurisdiction now held and exercised by the criminal court of Baltimore, except in such appeal cases as are herein assigned to the Baltimore City court.

SEC. 31. There shall be elected by the legal and qualified voters of said city, at the election hereinbefore provided for, one chief judge, and four associate judges, who, together, shall constitute the supreme bench of Baltimore City, and shall hold their offices for the term of fifteen years, subject to the provisions of this constitution with regard to the election and qualifications of judges, and their removal from office, and shall exercise the jurisdiction hereinafter specified, and shall each receive an annual salary of three thousand five hundred dollars, payable quarterly, which shall not be diminished during their term of office; but authority is hereby given to the mayor and city council of Baltimore to pay to each of the said judges an annual addition of five hundred dollars to their respective salaries: *Provided*, That the same being once granted shall not be diminished, nor increased, during the continuance of said judges in office.

SEC. 32. It shall be the duty of the said supreme bench of Baltimore City, as soon as the judges thereof shall be elected and duly qualified, and from time to time, to provide for the holding of each of the aforesaid courts, by the assignment of one or more of their number to each of the said courts, who may sit either separately, or together, in the trial of cases; and the said supreme bench of Baltimore City may, from time to time, change the said assignment as circumstances may require and the public interests may demand; and the judge or judges so assigned to the said several courts shall, when holding the same, have all the powers and exercise all the jurisdiction which may belong to the court so being held; and it shall also be the duty of the said supreme bench of Baltimore City, in case of the sickness, absence, or disability of any judge or judges, assigned as aforesaid, to provide for the hearing of the cases or transaction of the business assigned to said judge or judges, as aforesaid, before some one or more of the judges of said court.

SEC. 33. The said supreme bench of Baltimore City shall have power, and it shall be its duty, to provide for the holding of as many general terms as the performance of its duty may require, such general terms to be held by not less than three judges; to make all needful rules and regulations for the conduct of business in each of the said courts, during the session thereof, and in vacation, or in chambers, before any of said judges, and shall, also, have jurisdiction to hear and determine all motions for a new trial in cases tried in any of said courts, where such motions arise either on questions of fact or for misdirection upon any matters of law, and all motions in arrest of judgment, or upon any matters of law, determined by the said judge or judges, while holding said several courts; and the said supreme bench of Baltimore City shall make all needful rules and regulations for the hearing before it of all of said matters; and the same right of appeal to the court of appeals shall be allowed from the determination of the said court on such matters as would have been the right of the parties if said matters had been decided by the court in which said cases were tried.

SEC. 34. No appeal shall lie to the supreme bench of Baltimore City from the decision of the judge or judges holding the Baltimore City court, in case of appeal from a justice of the peace; but the decision by said judge or judges shall be final; and all writs and other process issued out of either of said courts requiring attestation, shall be attested in the name of the chief judge of the said supreme bench of Baltimore City.

SEC. 35. Three of the judges of said supreme bench of Baltimore City shall constitute a quorum of said court.

SEC. 36. All causes depending at the adoption of this constitution in the superior court of Baltimore City, the court of common pleas, the criminal court of Baltimore, and the circuit court of Baltimore City, shall be proceeded in and prosecuted to final judgment or decree in the courts respectively of the same name established by this constitution, except cases belonging to that class, jurisdiction over which is by this constitution transferred to the Baltimore City court, all of which shall, together with all cases now pending in the city court of Baltimore, be proceeded in and prosecuted to final judgment in said Baltimore City court.

SEC. 37. There shall be a clerk of each of the said courts of Baltimore City, except the supreme bench, who shall be elected by the legal and qualified voters of said city at the election to be held in said city on the Tuesday next after the first Monday of November, in the year eighteen hundred and sixty-seven, and shall hold his office for six years from the time of his election, and until his successor is elected and qualified, and be reëligible thereto, subject to be removed for wilful neglect of duty or other misdemeanor in office, on conviction in a court of law. The salary of each of the said clerks shall be thirty-five hundred dollars a year, payable only out of the fees and receipts collected by the clerks of said city, and they shall be entitled to no other perquisites or compensation. In case of a vacancy in the office of clerk of any of said courts, the judges of said supreme bench of Baltimore City shall have power to fill such vacancy until the general election of delegates to the general assembly, to be held next thereafter, when a clerk of said court shall be elected to serve for six years thereafter; and the provisions of this article in relation to the appointment of deputies, by the clerks of the circuit court in the counties, shall apply to the clerks of the courts in Baltimore City.

SEC. 38. The clerk of the court of common pleas shall have authority to issue within said city all marriage and other licenses required by law, subject to such provisions as are now or may be prescribed by law. The clerk of the superior court of said city shall receive and report all deeds, conveyances, and other papers, which are or may be required by law to be recorded in said city. He shall also have custody of all papers connected with the proceedings on the law or equity side of Baltimore County court, and of the dockets thereof, so far as the same have relation to the city of Baltimore, and shall also discharge the duties of clerk to the supreme bench of Baltimore City, unless otherwise provided by law.

SEC. 39. The general assembly shall, whenever it may think the same proper and expedient, provide by law another court for the city of Baltimore, and prescribe its jurisdiction and powers; in which case there shall be elected by the voters of said city, qualified under this constitution, another judge of the supreme bench of Baltimore City, who shall be subject to the same constitutional provisions, hold his office for the same term of years, receive the same compensation, and have the same powers as are herein provided for the judges of said supreme bench of Baltimore City; and all the provisions of this constitution relating to the assignment of judges to the courts now existing in said city, and for the dispatch of business therein, shall apply to the court for whose creation provision is made by this section. And the general assembly may reapportion, change, or enlarge the jurisdiction of the several courts in Baltimore City. Until otherwise provided by law, the clerk of the superior court of Baltimore City, of the court of common pleas, of the circuit court of Baltimore City, of the Baltimore City court, and of the criminal court of Baltimore, shall each give bond in such penalty as is now prescribed by law to be given by the clerks of the courts bearing the same names under the present constitution.

PART V.—*Orphans' court.*

SEC. 40. The qualified voters of the city of Baltimore and of the several counties shall, on the Tuesday next after the first Monday in November next, and on the same day in every fourth year thereafter, elect three men to be judges of the orphans' courts of said city and counties, respectively, who shall be citizens of the State, and residents

for the twelve months preceding in the city or county for which they may be elected. They shall have all the powers now vested in the orphans' courts of the State, subject to such changes as the legislature may prescribe. Each of said judges shall be paid a per diem for the time they are actually in session, to be regulated by law, and to be paid by the said city or county respectively. In case of a vacancy in the office of judge of the orphans' court, the governor shall appoint, subject to confirmation or rejection by the senate, some suitable person to fill the same for the residue of the term.

SEC. 41. There shall be a register of wills in each county of the State and the city of Baltimore, to be elected by the legal and qualified voters of said counties and city respectively, who shall hold his office for six years from the time of his election, and until his successor is elected and qualified; he shall be reëligible, and subject at all times to removal for wilful neglect of duty, or misdemeanor in office, in the same manner that the clerks of the courts are removable. In the event of any vacancy in the office of register of wills, said vacancy shall be filled by the judges of the orphans' court in which such vacancy occurs, until the next general election for delegates to the general assembly, when a register shall be elected to serve for six years thereafter.

PART VI.—*Justices of the peace.*

SEC. 42. The governor, by and with the advice and consent of the senate, shall appoint such number of justices of the peace, and the county commissioners of the several counties, and the mayor and city council of Baltimore, respectively, shall appoint such number of constables for the several election-districts of the counties and wards of the city of Baltimore, as are now, or may hereafter be, prescribed by law; and justices of the peace and constables so appointed shall be subject to removal by the judge or judges having criminal jurisdiction in the county or city, for incompetency, wilful neglect of duty, or misdemeanor in office, on conviction in a court of law. The justices of the peace and constables so appointed and commissioned shall be conservators of the peace, shall hold their office for two years, and shall have such jurisdiction, duties, and compensation, subject to such right of appeal, in all cases, from the judgment of justices of the peace, as hath been heretofore exercised, or shall be hereafter prescribed by law.

SEC. 43. In the event of a vacancy in the office of a justice of the peace, the governor shall appoint a person to serve as justice of the peace, for the residue of the term; and in case of a vacancy in the office of constable the county commissioners of the county in which the vacancy occurs, or the mayor and city council of Baltimore, as the case may be, shall appoint a person to serve as constable for the residue of the term.

PART VII.—*Sheriffs.*

SEC. 44. There shall be elected in each county and in the city of Baltimore, in every second year, one person, resident in said county or city, above the age of twenty-five years, and at least five years preceding his election a citizen of this State, to the office of sheriff. He shall hold his office for two years and until his successor is duly elected and qualified; shall be ineligible for two years thereafter, shall give such bond, exercise such powers, and perform such duties as now are or may hereafter be fixed by law. In case of a vacancy by death, resignation, refusal to serve, or neglect to qualify or give bond, or by disqualification, or removal from the county or city, the governor shall appoint a person to be sheriff for the remainder of the official term.

SEC. 45. Coroners, elisors, and notaries public may be appointed for each county and the city of Baltimore, in the manner, for the purpose, and with the powers now fixed, or which may hereafter be prescribed by law.

ARTICLE V.

ATTORNEY-GENERAL AND STATE'S ATTORNEYS.

Attorney-General.

SECTION 1. There shall be an attorney-general elected by the qualified voters of the State on general ticket, on the Tuesday next after the first Monday in the month of November, 1867, and on the same day in every fourth year thereafter, who shall hold his office for four years from the time of his election and qualification and until his successor is elected and qualified, and shall be reëligible thereto, and shall be subject to removal for incompetency, wilful neglect of duty, or misdemeanor in office, on conviction in a court of law.

SEC. 2. All elections for attorney-general shall be certified to, and returns made thereof, by the clerks of the circuit courts of the several counties, and the clerk of the superior court of Baltimore City, to the governor of the State, whose duty it shall be to decide on the election and qualification of the person returned; and in case of a tie between two or more persons, to designate which of said persons shall qualify as attorney-general, and to administer the oath of office to the person elected.

SEC. 3. It shall be the duty of the attorney-general to prosecute and defend, on the part of the State, all cases which, at the time of his appointment and qualification, and which thereafter may be depending in the court of appeals, or in the Supreme Court of the United States, by or against the State, or wherein the State may be interested; and he shall give his opinion in writing whenever required by the general assembly, or either branch thereof, the governor, the comptroller, the treasurer, or any State's attorney, on any legal matter or subject depending before them or either of them; and, when required by the governor or the general assembly, he shall aid any State's attorney in prosecuting any suit or action brought by the State in any court of this State; and he shall commence and prosecute or defend any suit or action in any of said courts, on the part of the State, which the general assembly or the governor, acting according to law, shall direct to be commenced, prosecuted, or defended, and he shall receive for his services an annual salary of three thousand dollars; but he shall not be entitled to receive any fees, perquisites, or rewards whatever in addition to the salary aforesaid for the performance of any official duty, nor have power to appoint any agent, representative, or deputy, under any circumstances whatever; nor shall the governor employ any additional counsel in any case whatever, unless authorized by the general assembly.

SEC. 4. No person shall be eligible to the office of attorney-general who is not a citizen of this State, and a qualified voter therein, and has not resided and practised law in this State for at least ten years.

SEC. 5. In case of vacancy in the office of attorney-general, occasioned by death, resignation, removal from the State or from office, or other disqualification, the said vacancy shall be filled by the governor for the residue of the term thus made vacant.

SEC. 6. It shall be the duty of the clerk of the court of appeals and of the commissioner of the land-office, respectively, whenever a case shall be brought into said court or office in which the State is a party, or has interest, immediately to notify the attorney-general thereof.

The State's Attorneys.

SEC. 7. There shall be an attorney for the State in each county and the city of Baltimore, to be styled "the State's attorney," who shall be elected by the voters thereof, respectively, on the Tuesday next after the first Monday of November, in the year eighteen hundred and sixty-seven, and on the same day every fourth year thereafter, and shall hold his office for four years from the first Monday in January next ensuing his election, and until his successor shall be elected and qualified, and shall be reëligible thereto, and be subject to removal therefrom for incompetency, wilful neglect of duty, or misdemeanor in office, on conviction in a court of law, or by a vote of two-thirds of the senate, on the recommendation of the attorney-general.

SEC. 8. All elections for the State's attorney shall be certified to, and returns made thereof, by the clerks of the said counties and city, to the judges thereof, having criminal jurisdiction, respectively, whose duty it shall be to decide upon the elections and qualification of the persons returned; and in case of a tie between two or more persons, to designate which of said persons shall qualify as State's attorney, and to administer the oaths of office to the person elected.

SEC. 9. The State's attorney shall perform such duties and receive such fees and commissions as are now, or may hereafter be, prescribed by law, and if any State's attorney shall receive any other fee or reward than such as is, or may be, allowed by law, he shall, on conviction thereof, be removed from office: *Provided*, That the State's attorney for Baltimore City shall have power to appoint one deputy, at a salary of not more than fifteen hundred dollars per annum, to be paid by the State's attorney out of the fees of his office, as has heretofore been practised.

SEC. 10. No person shall be eligible to the office of State's attorney who has not been admitted to practise law in this State, and who has not resided for at least two years in the county or city in which he may be elected.

SEC. 11. In case of vacancy in the office of State's attorney, or of his removal from the county or city in which he shall have been elected, or, on his conviction, as herein specified, the said vacancy shall be filled by the judge of the county or city, respectively, having criminal jurisdiction, in which said vacancy shall occur, for the residue of the term thus made vacant.

SEC. 12. The State's attorney in each county and the city of Baltimore shall have authority to collect, and give receipt, in the name of the State, for such sums of money as may be collected by him, and forthwith make return of and pay over the same to the proper accounting officer. And the State's attorney of each county and the city of Baltimore, before he shall enter on the discharge of his duties, shall execute a bond to the State of Maryland for the faithful performance of his duties, in the penalty of ten thousand dollars, with two or more sureties, to be approved by the judge of the court, having criminal jurisdiction, in said counties or city.

ARTICLE VI.

TREASURY DEPARTMENT.

SECTION 1. There shall be a treasury department, consisting of a comptroller, chosen by the qualified electors of the State, at each regular election of members of the house of delegates, who shall receive an annual salary of two thousand five hundred dollars, and a treasurer, to be appointed by the two houses of the legislature, at each regular session thereof, on joint ballot, who shall receive an annual salary of two thousand five hundred dollars; and the term of office of the said comptroller and treasurer shall be for two years, and until their successors shall qualify; and neither of the said officers shall be allowed or receive any fees, commissions, or perquisites of any kind, in addition to his salary, for the performance of any duty or services whatsoever. In case of a vacancy in either of the offices, by death or otherwise, the governor, by and with the advice and consent of the senate, shall fill such vacancy by appointment, to continue until another election or a choice by the legislature, as the case may be, and until the qualification of the successor. The comptroller and the treasurer shall keep their offices at the seat of government, and shall take such oath and enter into such bonds for the faithful discharge of their duties as are now, or may hereafter be, prescribed by law.

SEC. 2. The comptroller shall have the general superintendence of the fiscal affairs of the State; he shall digest and prepare plans for the improvement and management of the revenue, and for the support of the public credit; prepare and report estimates of the revenue and expenditures of the State; superintend and enforce the prompt collection of all taxes and revenue; adjust and settle, on terms prescribed by law, with delinquent collectors and receivers of taxes and State revenue; preserve all public accounts; decide on the forms of keeping and stating accounts; grant, under regulations prescribed by law, all warrants for money to be paid out of the treasury, in pursuance of appropriations by law; and countersign all checks drawn

by the treasurer upon any bank or banks in which the moneys of the State may from time to time be deposited; prescribe the formalities of the transfer of stock, or other evidence of the State debt, and countersign the same, without which such evidences shall not be valid; he shall make to the general assembly full reports of all his proceedings, and of the state of the treasury department, within ten days after the commencement of each session; and perform such other duties as shall be prescribed by law.

SEC. 3. The treasurer shall receive the moneys of the State, and, until otherwise prescribed by law, deposit them, as soon as received, to the credit of the State in such bank or banks as he may, from time to time, with the approval of the governor, select, the said bank or banks giving security, satisfactory to the governor, for the safe-keeping and forthcoming, when required, of said deposits, and shall disburse the same for the purposes of the State, according to law, upon warrants drawn by the comptroller, and on checks countersigned by him, and not otherwise; he shall take receipts for all moneys paid by him; and receipts for moneys received by him shall be indorsed upon warrants signed by the comptroller; without which warrants so signed no acknowledgment of money received into the treasury shall be valid; and upon warrants issued by the comptroller he shall make arrangements for the payment of the interest of the public debt, and for the purchase thereof on account of the sinking-fund. Every bond, certificate, or other evidence of the debt of the State shall be signed by the treasurer, and countersigned by the comptroller; and no new certificate, or other evidence intended to replace another, shall be issued until the old one shall be delivered to the treasurer and authority executed in due form for the transfer of the same filed in his office, and the transfer accordingly made on the books thereof, and the certificate or other evidence cancelled; but the legislature may make provisions for the loss of certificates, or other evidences of the debt, and may prescribe by law the manner in which the treasurer shall receive and keep the moneys of the State.

SEC. 4. The treasurer shall render his accounts quarterly to the comptroller; and shall publish monthly, in such newspapers as the governor may direct, an abstract thereof, showing the amount of cash on hand, and the place or places of deposit thereof; and on the third day of each regular session of the legislature he shall submit to the senate and house of delegates fair and accurate copies of all accounts by him from time to time rendered and settled with the comptroller. He shall at all times submit to the comptroller the inspection of the money in his hands, and perform all other duties that shall be prescribed by law.

SEC. 5. The comptroller shall qualify, and enter on the duties of his office, on the third Monday of January next succeeding the time of his election, or as soon thereafter as practicable. And the treasurer shall qualify within one month after his appointment by the legislature.

SEC. 6. Whenever during the recess of the legislature charges shall be preferred to the governor against the comptroller or treasurer, for incompetency, malfeasance in office, wilful neglect of duty, or misappropriation of the funds of the State, it shall be the duty of the governor to forthwith notify the party so charged, and fix a day for a hearing of said charges; and if, from the evidence taken under oath, on said hearing before the governor, the said allegations shall be sustained, it shall be the duty of the governor to remove said offending officer, and to appoint another in his place, who shall hold his office for the unexpired term of the officer so removed.

ARTICLE VII.

SUNDRY OFFICERS.

SECTION 1. County commissioners shall be elected on general ticket of each county by the qualified voters of the several counties of this State, on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-seven, and on the same day in every second year thereafter. Their number in each county, their compensation, powers, and duties, shall be such as are now, or may be hereafter, prescribed by law.

SEC. 2. The qualified voters of each county, and of the city of Baltimore, shall, on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-seven, and on the same day in every second year thereafter, elect a surveyor for each county and the city of Baltimore, respectively, whose term of office shall commence on the first Monday of January next ensuing their election; and whose duties and compensation shall be the same as are now or may hereafter be prescribed by law. And any vacancy in the office of surveyor shall be filled by the commissioners of the counties, or by the mayor and city council of Baltimore, respectively, for the residue of the term.

SEC. 3. The State librarian shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold his office during the term of the governor by whom he shall have been appointed, and until his successor shall be appointed and qualified. His salary shall be fifteen hundred dollars a year; and he shall perform such duties as are now, or may hereafter be, prescribed by law; and no appropriations shall be made by law to pay for any clerk or assistant to the librarian. And it shall be the duty of the legislature, at its first session after the adoption of this constitution, to pass a law regulating the mode and manner in which the books in the library shall be kept and accounted for by the librarian, and requiring the librarian to give a bond, in such penalty as the legislature may prescribe, for the proper discharge of his duties.

SEC. 4. There shall be a commissioner of the land-office, who shall be appointed by the governor, by and with the advice and consent of the senate, who shall hold his office during the term of the governor by whom he shall have been appointed, and until his successor shall be appointed and qualified. He shall perform such duties as are now required of the commissioner of the land-office, or such as may hereafter be prescribed by law, and shall also be the keeper of the chancery records. He shall receive a salary of one thousand five hundred dollars per annum, to be paid out of the treasury, and shall charge such fees as are now, or may be hereafter, fixed by law. He shall make a semiannual report of all the fees of his office, both as commissioner of the land-office and as keeper of the chancery records, to the comptroller of the treasury, and shall pay the same semiannually into the treasury.

SEC. 5. The commissioner of the land-office shall also, without additional compensation, collect, arrange, classify, have charge of, and safely keep all papers, records, relics, and other memorials connected with the early history of Maryland not belonging to any other office.

SEC. 6. The qualified voters of Worcester County shall, on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-seven, and every two years thereafter, elect a wreck-master for said county, whose duties and compensation shall be the same as are now, or may be hereafter, prescribed by law; the term of office of said wreck-master shall commence on the first Monday of January next succeeding his election, and a vacancy in said office shall be filled by the county commissioners of said county for the residue of the term.

ARTICLE VIII.

EDUCATION.

SECTION 1. The general assembly, at its first session after the adoption of this constitution, shall by law establish throughout the State a thorough and efficient system of free public schools, and shall provide by taxation or otherwise for their maintenance.

SEC. 2. The system of public schools, as now constituted, shall remain in force until the end of the said first session of the general assembly, and shall then expire, except so far as adopted or continued by the general assembly.

SEC. 3. The school-fund of the State shall be kept inviolate, and appropriated only to the purposes of education.

ARTICLE IX.

MILITIA AND MILITARY AFFAIRS.

SECTION 1. The general assembly shall make, from time to time, such provision for

organizing, equipping, and disciplining the militia as the exigency may require, and pass such laws to promote volunteer militia organizations as may afford them effectual encouragement.

SEC. 2. There shall be an adjutant-general appointed by the governor, by and with the advice and consent of the senate. He shall hold his office until the appointment and qualification of his successor, or until removed in pursuance of the sentence of a court-martial. He shall perform such duties and receive such compensation or emoluments as are now, or may be, prescribed by law. He shall discharge the duties of his office at the seat of government, unless absent, under orders, on duty; and no other officer of the general staff of the militia shall receive salary or pay, except when on service and mustered in with troops.

SEC. 3. The existing militia law of the State shall expire at the end of the next session of the general assembly, except so far as it may be reënacted, subject to the provisions of this article.

ARTICLE X.

LABOR AND AGRICULTURE.

SECTION 1. There shall be a superintendent of labor and agriculture elected by the qualified voters of this State at the first general election for delegates to the general assembly after the adoption of this constitution, who shall hold his office for the term of four years, and until the election and qualification of his successor.

SEC. 2. His qualifications shall be the same as those prescribed for the comptroller; he shall qualify and enter upon the duties of his office on the second Monday of January next succeeding the time of his election; and a vacancy in the office shall be filled by the governor for the residue of the term.

SEC. 3. He shall perform such of the duties now devolved by law upon the commissioner of immigration and the immigration-agent as will promote the object for which those officers were appointed, and such other duties as may be assigned to him by the general assembly, and shall receive a salary of twenty-five hundred dollars a year; and after his election and qualification the offices before mentioned shall cease.

SEC. 4. He shall supervise all the State inspectors of agricultural products and fertilizers, and, from time to time, shall carefully examine and audit their accounts, and prescribe regulations, not inconsistent with law, tending to secure economy and efficiency in the business of their offices. He shall have the supervision of the tobacco warehouses, and all other buildings used for inspection and storage purposes by the State, and may, at the discretion of the legislature, have the supervision of all public buildings now belonging to, or which may hereafter be erected by, the State. He shall frequently inspect such buildings as are committed to his charge, and examine all accounts for labor and materials required for their construction or repairs.

SEC. 5. He shall inquire into the undeveloped resources of wealth of the State of Maryland, more especially concerning those within the limits of the Chesapeake Bay and its tributaries, which belong to the State, and suggest such plans as may be calculated to render them available as sources of revenue.

SEC. 6. He shall make detailed reports to every general assembly, within the first week of its session, in reference to each of the subjects committed to his charge, and he shall also report to the governor, in the recess of the legislature, all abuses or irregularities which he may find to exist in any department of public affairs with which his office is connected.

SEC. 7. The office hereby established shall continue for four years from the date of the qualification of the first incumbent thereof, and shall then expire, unless continued by the general assembly.

ARTICLE XI.

CITY OF BALTIMORE.

SECTION 1. The inhabitants of the city of Baltimore, qualified by law to vote in said city for members of the house of delegates, shall, on the fourth Wednesday of October, eighteen hundred and sixty-seven, and on the same day in every fourth year

thereafter, elect a person to be mayor of the city of Baltimore, who shall have such qualifications, receive such compensation, discharge such duties, and have such powers as are now, or may hereafter be, prescribed by law, and the term of whose office shall commence on the first Monday of November succeeding his election, and shall continue for four years, and until his successor shall have qualified, and he shall be ineligible for the term next succeeding that for which he was elected.

SEC. 2. The city council of Baltimore shall consist of two branches, one of which shall be called the first branch, and the other the second branch; and each shall consist of such number of members, having such qualification, receiving such compensation, performing such duties, possessing such powers, holding such terms of office, and elected in such manner as are now, or may hereafter be, prescribed by law.

SEC. 3. An election for members of the first and second branch of the city council of Baltimore, shall be held in the city of Baltimore, on the fourth Wednesday of October, eighteen hundred and sixty-seven, and for members of the first branch on the same day in every year thereafter; and for members of the second branch on the same day in every second year thereafter; and the qualification for electors of the members of the city council shall be the same as those prescribed for the electors of mayor.

SEC. 4. The regular sessions of the city council of Baltimore (which shall be annual) shall commence on the third Monday of January of each year, and shall not continue more than ninety days, exclusive of Sundays; but the mayor may convene the city council in extra session whenever and as often as it may appear to him that the public good may require; but no called or extra session shall last longer than twenty days, exclusive of Sundays.

SEC. 5. No person elected and qualified as mayor, or as a member of the city council, shall, during the term for which he was elected, hold any other office of profit or trust, created or to be created by the mayor and city council of Baltimore, or by any law relating to the corporation of Baltimore, or hold any emolument or position the compensation of which shall be paid, directly or indirectly, out of the city treasury; nor shall any such person be interested, directly or indirectly, in any contract to which the city is a party, nor shall it be lawful for any person holding any office under the city to be interested, while holding such office, in any contract to which the city is a party.

SEC. 6. The mayor shall, on conviction in a court of law of wilful neglect of duty or misbehavior in office, be removed from office by the governor of the State, and a successor shall thereafter be elected as in a case of vacancy.

SEC. 7. From and after the adoption of this constitution, no debt (except as hereinafter excepted) shall be created by the mayor and city council of Baltimore; nor shall the credit of the mayor and city council of Baltimore be given or loaned to or in aid of any individual, association, or corporation; nor shall the mayor and city council of Baltimore have the power to involve the city of Baltimore in the construction of works of internal improvement, nor in granting any aid thereto, which shall involve the faith and credit of the city, nor make any appropriation therefor, unless such debt or credit be authorized by an act of the general assembly of Maryland, and by an ordinance of the mayor and city council of Baltimore, submitted to the legal voters of the city of Baltimore, at such time and place as may be fixed by said ordinance, and approved by a majority of the votes cast at such time and place; but the mayor and city council may, temporarily, borrow any amount of money to meet any deficiency in the city treasury, or to provide for any emergency arising from the necessity of maintaining the police, or preserving the safety and sanitary condition of the city, and may make due and proper arrangements and agreements for the removal and extension, in whole or in part, of any and all debts and obligation created according to law before the adoption of this constitution.

SEC. 8. All laws and ordinances now in force applicable to the city of Baltimore, not inconsistent with this article, shall be, and they are hereby, continued until changed in due course of law.

SEC. 9. The general assembly may make such changes in this article, except in section seven thereof, as it may deem best; and this article shall not be so construed

or taken as to make the political corporation of Baltimore independent of or free from the control which the general assembly of Maryland has over all such corporations in this State.

ARTICLE XII.

PUBLIC WORKS.

SECTION 1. The governor, the comptroller of the treasury, and the treasurer shall constitute the board of public works in this State. They shall keep a journal of their proceedings, and shall hold regular sessions in the city of Annapolis, on the first Wednesday in January, April, July, and October, in each year, and oftener, if necessary; at which sessions they shall hear and determine such matters as affect the public works of the State, and as the general assembly may confer upon them the power to decide.

SEC. 2. They shall exercise a diligent and faithful supervision of all public works in which the State may be interested as stockholder or creditor, and shall represent and vote the stock of the State of Maryland, in all meetings of the stockholders of the Chesapeake and Ohio Canal; and shall appoint the directors in every railroad and canal company in which the State has the legal power to appoint directors, which said directors shall represent the State in all meetings of the stockholders of the respective companies for which they are appointed or elected. And the president and directors of the said Chesapeake and Ohio Canal Company shall so regulate the tolls of said company, from time to time, as to produce the largest amount of revenue, and to avoid the injurious effects to said company of rival competitors by other internal-improvement companies. They shall require the directors of all said public works to guard the public interest, and prevent the establishment of tolls which shall discriminate against the interest of the citizens or products of this State, and from time to time, and as often as there shall be any change in the rates of toll on any of the said works, to furnish the said board of public works a schedule of such modified rates of toll, and so adjust them as to promote the agricultural interests of the State; they shall report to the general assembly at each regular session, and recommend such legislation as they may deem necessary and requisite to promote or protect the interests of the State in the said public works; they shall perform such other duties as may be hereafter prescribed by law; and a majority of them shall be competent to act. The governor, comptroller, and treasurer shall receive no additional salary for services rendered by them as members of the board of public works. The provisions of the act of the general assembly of Maryland of the year 1867, chapter 359, are hereby declared null and void.

SEC. 3. The board of public works is hereby authorized to exchange the State's interest as stockholder and creditor in the Baltimore and Ohio Railroad Company for an equal amount of the bonds or registered debt now owing by the State, to the extent only of all the preferred stock of the State on which the State is entitled to only 6 per cent. interest: *Provided*, Such exchange shall not be made at less than par nor less than the market-value of said stock; and the said board is authorized, subject to such regulations and conditions as the general assembly may from time to time prescribe, to sell the State's interest in the other works of internal improvement, whether as a stockholder or a creditor; and also the State's interest in any banking corporation, receiving in payment the bonds and registered debt now owing by the State, equal in amount to the price obtained for the State's said interest: *Provided*, That the interest of the State in the Washington Branch of the Baltimore and Ohio Railroad be reserved and excepted from sale: *And provided further*, That no sale or contract of sale of the State's interest in the Chesapeake and Ohio Canal, the Chesapeake and Delaware Canal, and the Susquehanna and Tidewater Canal Companies shall go into effect until the same shall be ratified by the ensuing general assembly.

ARTICLE XIII.

NEW COUNTIES.

SECTION 1. The general assembly may provide by law for organizing new counties, locating and removing county-seats, and changing county-lines; but no new county



shall be organized without the consent of the majority of the legal voters residing within the limits proposed to be formed into said new county; and whenever a new county shall be proposed to be formed out of portions of two or more counties, the consent of a majority of the legal voters of such part of each of said counties, respectively, shall be required; nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the district which, under said proposed change, would form a part of a county different from that to which it belonged prior to said change; and no new county shall contain less than four hundred square miles, nor less than ten thousand white inhabitants; nor shall any change be made in the limits of any county, whereby the population of said county would be reduced to less than ten thousand white inhabitants, or its territory reduced to less than four hundred square miles.

SEC. 2. At the election to be held, for the adoption or rejection of this constitution, in each election-district in those parts of Worcester and Somerset Counties comprised within the following limits, viz: Beginning at the point where Mason and Dixon's line crosses the channel of Pocomoke River; thence following said line to the channel of the Nanticoke River; thence with the channel of said river to Tangier Sound, or the intersection of Nanticoke and Wicomico Rivers; thence up the channel of the Wicomico River to the mouth of Wicomico Creek; thence with the channel of said creek and Passerdyke Creek to Dashield's, or Disharoon's Mills; thence with the mill-pond of said mills and branch, following the middle prong of said braneh, to Meadow Bridge, on the road dividing the counties of Somerset and Worcester, near the southwest corner of the farm of William P. Morris; thence due east to the Pocomoke River; thence with the channel of said river to the beginning; the judges of election in each of said districts shall receive the ballots of each elector voting at said election, who has resided for six months preceding said election within said limits, for or against a new county; and the return-judges of said election-districts shall certify the result of such voting in the manner now prescribed by law to the governor, who shall, by proclamation, make known the same; and if a majority of the legal votes cast within that part of Worcester County contained within said lines, and also a majority of the legal votes cast within that part of Somerset County contained within said lines, shall be in favor of a new county, then said parts of Worcester and Somerset Counties shall become and constitute a new county, to be called Wicomico County, and Salisbury shall be the county-seat. And the inhabitants thereof shall thenceforth have and enjoy all such rights and privileges as are held and enjoyed by the inhabitants of the other counties of this State.

SEC. 3. When said new county shall have been so created, the inhabitants thereof shall cease to have any claim to or interest in the county-buildings and other public property of every description, belonging to said counties of Somerset and Worcester, respectively, and shall be liable for their proportionate shares of the then existing debts and obligations of the said counties, according to the last assessment in said counties, to be ascertained and apportioned by the circuit court of Somerset County, as to the debts and obligations of said county; and by the circuit court of Worcester County, as to the debts and obligations of said county, on the petition of the county commissioners of the said counties, respectively; and the property in each part of the said counties, included in said new county, shall be bound only for the shares of the debts or obligations of the county from which it shall be separated; and the inhabitants of said new county shall also pay the county taxes levied upon them at the time of the creation of such new county, as if such new county had not been created; and on the application of twelve citizens of the proposed county of Wicomico, the surveyor of Worcester County shall run and locate the line from Meadow Bridge to the Pocomoke River previous to the adoption or rejection of this constitution, and at the expense of said petitioners.

SEC. 4. At the first general election held under this constitution, the qualified voters of said new county shall be entitled to elect a senator and two delegates to the general assembly, and all such county or other officers as this constitution may authorize or require to be elected by other counties of the State; a notice of such election

shall be given by the sheriffs of Worcester and Somerset Counties in the manner now prescribed by law; and in case said new county shall be established, as aforesaid, then the counties of Somerset and Worcester shall be entitled to elect but two delegates each to the general assembly.

SEC. 5. The county of Wicomico, if formed according to the provisions of this constitution, shall be embraced in the first judicial circuit; and the times for holding the courts therein shall be fixed and determined by the general assembly.

SEC. 6. The general assembly shall pass all such laws as may be necessary more fully to carry into effect the provisions of this article.

ARTICLE XIV.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. The general assembly may propose amendments to this constitution: *Provided*, That each amendment shall be embraced in a separate bill, embodying the article or section, as the same will stand when amended and passed by three-fifths of all the members elected to each of the two houses, by yeas and nays, to be entered on the journals with the proposed amendment. The bill or bills proposing amendment or amendments shall be published, by order of the governor, in at least two newspapers in each county, where so many may be published, and where not more than one may be published, then in that newspaper; and in three newspapers published in the city of Baltimore, one of which shall be in the German language, once a week for at least three months preceding the next ensuing general election, at which the said proposed amendment or amendments shall be submitted, in a form to be prescribed by the general assembly, to the qualified voters of the State for adoption or rejection. The votes cast for and against said proposed amendment or amendments, severally, shall be returned to the governor, in the manner prescribed in other cases, and if it shall appear to the governor that a majority of the votes cast at said election, on said amendment or amendments, severally, were cast in favor thereof, the governor shall, by his proclamation, declare the said amendment or amendments, having received said majority of votes, to have been adopted by the people of Maryland as part of the constitution thereof, and thenceforth said amendment or amendments shall be part of the said constitution. When two or more amendments shall be submitted, in manner aforesaid, to the voters of this State, at the same election, they shall be so submitted as that each amendment shall be voted on separately.

SEC. 2. It shall be the duty of the general assembly to provide by law for taking, at the general election to be held in the year eighteen hundred and eighty-seven, and every twenty years thereafter, the sense of the people in regard to calling a convention for altering this constitution; and if a majority of voters at such election or elections shall vote for a convention, the general assembly, at its next session, shall provide by law for the assembling of such convention, and for the election of delegates thereto. Each county and legislative district of the city of Baltimore shall have in such convention a number of delegates equal to its representation in both houses at the time at which the convention is called. But any constitution, or change, or amendment of the existing constitution, which may be adopted by such convention, shall be submitted to the voters of this State, and shall have no effect unless the same shall have been adopted by a majority of the voters voting thereon.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. Every person holding any office created by or existing under the constitution or laws of the State, (except justices of the peace, constables, and coroners,) or holding any appointment under any court of this State, whose pay or compensation is derived from fees or moneys coming into his hands for the discharge of his official duties, or in any way growing out of or connected with his office, shall keep a book in which shall be entered every sum or sums of money received by him, or on his account, as a payment or compensation for his performance of official duties, a

copy of which entries in said book, verified by the oath of the officer by whom it is directed to be kept, shall be returned yearly to the comptroller of the State for his inspection, and that of the general assembly of the State, to which the comptroller shall, at each regular session thereof, make a report showing what officers have complied with this section, and each of the said officers, when the amount received by him for the year shall exceed the sum which he is by law entitled to retain as his salary or compensation for the discharge of his duties and for the expenses of his office, shall yearly pay over to the treasurer of the State the amount of such excess, subject to such disposition thereof as the general assembly may direct; if any of such officers shall fail to comply with the requisitions of this section for the period of thirty days after the expiration of each and every year of his office, such officer shall be deemed to have vacated his office, and the governor shall declare the same vacant, and the vacancy therein shall be filled as in case of vacancy for any other cause, and such officer shall be subject to suit by the State for the amount that ought to be paid into the treasury; and no person holding any office created by or existing under this constitution or laws of the State, or holding any appointment under any court in this State, shall receive more than three thousand dollars a year as a compensation for the discharge of his official duties, except in cases specially provided in this constitution.

SEC. 2. The several courts existing in this State at the time of the adoption of this constitution shall, until superseded under its provisions, continue with like powers and jurisdiction, and in the exercise thereof, both at law and in equity, in all respects, as if this constitution had not been adopted; and when said courts shall be so superseded, all causes then depending in said courts shall pass into the jurisdiction of the several courts by which they may be respectively superseded.

SEC. 3. The governor and all officers, civil and military, now holding office under this State, whether by election or appointment, shall continue to hold, exercise, and discharge the duties of their offices (unless inconsistent with or otherwise provided in this constitution) until they shall be superseded under its provisions, and until their successors shall be duly qualified.

SEC. 4. If at any election directed by this constitution any two or more candidates shall have the highest and an equal number of votes, a new election shall be ordered by the governor, except in cases specially provided for by this constitution.

SEC. 5. In the trial of all criminal cases, the jury shall be the judges of law as well as of fact.

SEC. 6. The right of trial by jury of all issues of fact in civil proceedings in the several courts of law in this State, where the amount in controversy exceeds the sum of five dollars, shall be inviolably preserved.

SEC. 7. All general elections in this State shall be held on the Tuesday next after the first Monday in the month of November, in the year in which they shall occur; and the first election of all officers who, under this constitution are required to be elected by the people, shall, except in cases herein specially provided for, be held on the Tuesday next after the first Monday of November in the year eighteen hundred and sixty-seven.

SEC. 8. The sheriffs of the several counties of this State, and of the city of Baltimore, shall give notice of the several elections authorized by this constitution, in the manner prescribed by existing laws for elections to be held in this State, until said laws shall be changed.

SEC. 9. The term of office of all judges and other officers, for whose election provision is made by this constitution, shall, except in cases otherwise expressly provided herein, commence from the time of their election; and all such officers shall qualify as soon after their election as practicable, and shall enter upon the duties of their respective offices immediately upon their qualification; and the term of office of the State librarian and of the commissioner of the land-office shall commence from the time of their appointment.

SEC. 10. Any officer elected or appointed in pursuance of the provisions of this constitution may qualify either according to the existing provisions of law, in relation to officers under the present constitution, or before the governor of the State, or

before any clerk of any court of record in any part of the State; but in case an officer shall qualify out of the county in which he resides, an official copy of his oath shall be filed and recorded in the clerk's office of the circuit court of the county in which he may reside, or in the clerk's office of the superior court of the city of Baltimore, if he shall reside therein.

VOTE ON THE CONSTITUTION.

For the purpose of ascertaining the sense of the people of this State in regard to the adoption or rejection of this constitution, the governor shall issue his proclamation within five days after the adjournment of this convention, directed to the sheriffs of the city of Baltimore and of the several counties of this State, commanding them to give notice, in the manner now prescribed by law, in reference to the election of members of the house of delegates, that an election for the adoption or rejection of this constitution will be held in the city of Baltimore, and in the several counties of this State, on Wednesday, the eighteenth day of September, in the year eighteen hundred and sixty-seven, at the usual places of holding elections for members of the house of delegates in said city and counties. At the said election the vote shall be by ballot, and upon each ballot there shall be written or printed the words "For the constitution" or "Against the constitution," as the voter may elect; and the provisions of the laws of this State, relating to the holding of general elections for members of the house of delegates shall in all respects apply to and regulate the holding of the said election. It shall be the duty of the judges of election in said city, and in the several counties of the State, to receive, accurately count, and duly return the number of ballots so cast for or against the adoption of this constitution, as well as any blank ballots which may be cast, to the several clerks of the circuit courts of this State, and to the clerk of the superior court of Baltimore City, in the manner now prescribed by law in reference to the election of members of the house of delegates, and duplicates thereof directly to the governor; and the several clerks aforesaid shall return to the governor, within ten days after said election, the number of ballots cast for or against the constitution, and the number of blank ballots; and the governor, upon receiving the returns and ascertaining the aggregate vote throughout the State, shall by his proclamation make known the same; and if a majority of the votes cast shall be for the adoption of this constitution, it shall go into effect on Saturday, the fifth day of October, eighteen hundred and sixty-seven.

Done in convention the seventeenth day of August, in the year of our Lord one thousand eight hundred and sixty-seven, and of the Independence of the United States the ninety-second.

RICHARD B. CARMICHAEL, *President.*

MILTON Y. KIDD, *Secretary.*

AMENDMENT TO THE CONSTITUTION OF 1867.

RATIFIED 1875.

ARTICLE IV. SEC. 8. The parties to any cause may submit the same for determination without the aid of a jury, and in all suits or actions at law, issues in equity, and in all cases of presentments or indictments for offences which are or may be punishable by death, pending in any of the courts of law in this State having jurisdiction thereof, upon suggestion in writing under oath of either of the parties to said proceedings that such party cannot have fair and impartial trial in the court in which the same may be pending, the said court shall order and direct the record of proceedings in such suit or action, issue, presentment, or indictment to be transmitted to some other court having jurisdiction in such case for trial; but in all other cases of



presentment or indictment pending in any of the courts of law in this State having jurisdiction thereof, in addition to the suggestion in writing of either of the parties to such presentment or indictment that such party cannot have a fair and impartial trial in the court in which the same may be pending, it shall be necessary for the party making such suggestion to make it satisfactorily appear to the court that such suggestion is true or that there is reasonable ground for the same; and thereupon the said court shall order and direct the record of proceedings in such presentment or indictment to be transmitted to some other court having jurisdiction in such cases for trial, and such right of removal shall exist upon suggestion in cases when all the judges of said court may be disqualified under the provisions of this constitution to sit in any such case; and said court to which the record of proceedings in such suit or action, issue, presentment, or indictment may be so transmitted shall hear and determine the same in like manner as if such suit or action, issue, presentment or indictment had been originally instituted therein; and the General Assembly shall make such modification of existing law as may be necessary to regulate and give force to this provision.

MASSACHUSETTS.

THE FIRST CHARTER OF VIRGINIA—1606.*

[See "Virginia," pp. 1888–1893.]

THE CHARTER OF NEW ENGLAND—1620.†

JAMES, by the Grace of God, King of *England*, *Scotland*, *France*, and *Ireland*, Defender of the Faith, &c. to all whom these Presents shall come, *Greeting*, Whereas, upon the humble Petition of divers of our well disposed Subjects, that intended to make several Plantations in the Parts of *America*, between the Degrees of thirty-ffoure and ffourty-five; We according to our princely Inclination, favouring much their worthy Disposition, in Hope thereby to advance the in Largement of Christian Religion, to the Glory of God Almighty, as also by that Meanes to streatch out the Bounds of our Dominions, and to replenish those Deserts with People governed by Lawes and Magistrates, for the peaceable Commerce of all, that in time to come shall have occasion to traffique into those Territoryes, granted unto Sir *Thomas Gates*, Sir *George Somers*, Knights, *Thomas Hamon*, and *Raleigh Gilbert*, Esquires, and of their Associates, for the more speedy Accomplishment thereof, by our Letters-Pattent, bearing Date the Tenth Day of Aprill, in the Fourth Year of our Reign of *England*, *France*, and *Ireland*, and of *Scotland* the ffourtieth, free Liberty to divide themselves into two several Collonyes; the one called the first Collonye, to be undertaken and advanced by certain Knights, Gentlemen, and Merchants, in and about our Cyty of London; the other called the Second Collonye, to be undertaken and advanced by certaine Knights, Gentlemen, and Merchants, and their associates, in and about our Citties of Bristoll, Exon, and our Towne of Plymouth, and other Places, as in and by our said Letters-Pattents, amongst other Things more att large it doth and may appeare. And whereas, since that Time, upon the humble Petition of the said Adventurers and Planters of the said first Collonye, We have been graciously pleased to make them one distinct and entire Body by themselves, giving unto them their distinct Lymitts and Bounds, and have upon their like humble Request, granted unto them divers Liberties, Priveliges, Enlargements, and Immunityes, as in and by our severall Letters-Patents it doth and may appeare. Now forasmuch as We have been in like Manner humbly petitioned unto by our trusty and well beloved Servant, Sir *fferdinando Gorges*, Knight, Captain of our ffort and Island by Plymouth, and by certain the principal Knights and Gentlemen Adventurers of the said Second Collonye, and by divers other Persons of Quality, who now intend to be their Associates, divers of which have

* This charter, which was granted by James I of Great Britain, gave the lands along the North American coast, between the thirty-fourth and the thirty-fifth degree of north latitude, to two companies, one of which had its headquarters at London and the other at Plymouth, England. The Plymouth, or second company, at once commenced colonizing the coast of New England, which was especially assigned to it.

† The London Company, organized under the charter of 1606, received a new charter in 1609, as the South Virginia Company, and the Plymouth Company was reorganized in 1620, "for the planting, ruling, ordering, and governing of New England in America."

been at great and extraordinary Charge, and sustained many Losses in seeking and discovering a Place fitt and convenient to lay the Foundation of a hopeful Plantation, and have divers Years past by God's Assistance, and their own endeavours, taken actual Possession of the Continent hereafter mentioned, in our Name and to our Use, as Sovereign Lord thereof, and have settled already some of our People in Places agreeable to their Desires in those Parts, and in Confidence of prosperous Success therein, by the Continuance of God's Devine Blessing, and our Royall Permission, have resolved in a more plentifull and effectual Manner to prosecute the same, and to that Purpose and Intent have desired of Us, for their better Encouragement and Satisfaction herein, and that they may avoide all Confusion, Questions, or Differences between themselves, and those of the said first Collonye, We would likewise be graciously pleased to make certaine Adventurers, intending to erect and establish ffishery, Trade, and Plantacion, within the Territoryes, Precincts, and Lymitts of the said second Colony, and their Successors, one several distinct and entire Body, and to grant unto them, such Estate, Liberties, Priveliges, Enlargements, and Immunityes there, as in these our Letters-Pattents hereafter particularly expressed and declared. And forasmuch as We have been certainly given to understand by divers of our good Subjects, that have for these many Yeares past frequented those Coasts and Territoryes, between the Degrees of Fourty and Fourty-Eight, that there is noe other the Subjects of any Christian King or State, by any Authority from their Soveraignes, Lords, or Princes, actually in Possession of any of the said Lands or Precincts, whereby any Right, Claim, Interest, or Title, may, might, or ought by that Meanes accrue, belong, or appertaine unto them, or any of them. And also for that We have been further given certainly to knowe, that within these late Yeares there hath by God's Visitation raigned a wonderfull Plague, together with many horrible Slaughters, and Murthers, committed amoungst the Sauages and bruitish People there, heertofore inhabiting, in a Manner to the utter Destruction, Deuastacion, and Depopulacion of that whole Territorye, so that there is not left for many Leagues together in a Manner, any that doe claime or challenge any Kind of Interests therein, nor any other Superiour Lord or Souveraigne to make Claime thereunto, whereby We in our Judgment are persuaded and satisfied that the appointed Time is come in which Almighty God in his great Goodness and Bountie towards Us and our People, hath thought fitt and determined, that those large and goodly Territoryes, deserted as it were by their naturall Inhabitants, should be possessed and enjoyed by such of our Subjects and People as heertofore have and hereafter shall by his Mercie and Favour, and by his Powerfull Arme, be directed and conducted thither. In Contemplacion and serious Consideracion whereof, Wee have thougt it fitt according to our Kingly Duty, soe much as in Us lyeth, to second and followe God's sacred Will, rendering reverend Thanks to his Divine Majestie for his gracious favour in laying open and revealing the same unto us, before any other Christian Prince or State, by which Meanes without Offence, and as We trust to his Glory, Wee may with Boldness goe on to the settling of soe hopefull a Work, which tendeth to the reducing and Conversion of such Sauages as remaine wandering in Desolacion and Distress, to Civil Societie and Christian Religion, to the Inlargement of our own Dominions, and the Aduancement of the Fortunes of such of our good Subjects as shall willingly intresse themselves in the said Imployment, to whom We cannot but give singular Commendations for their soe worthy Intention and Enterprize; Wee therefore, of our especiall Grace, mere Motion, and certaine Knowledge, by the Aduice of the Lords and others of our Priuy Councell have for Us, our Heyrs and Successors, graunted, ordained, and established, and in and by these Presents, Do for Us, our Heirs and Successors, grant, ordaine and establish, that all that Circuit, Continent, Precincts, and Limitts in America, lying and being in Breadth from Fourty Degrees of Northerly Latitude, from the Equnoctiall Line, to Fourty-eight Degrees of the said Northerly Latitude, and in length by all the Breadth aforesaid throughout the Maine Land, from Sea to Sea, with all the Seas, Rivers, Islands, Creekes, Inletts, Ports, and Havens, within the Degrees, Precincts, and Limitts of the said Latitude and Longitude, shall be the Limitts, and Bounds, and Precincts of the second Collony: And to the End that the said Territoryes may forever hereafter be more particularly and certainly

known and distinguished, our Will and Pleasure is, that the same shall from henceforth be nominated, termed, and called by the Name of New-England, in America; and by that Name of New-England in America, the said Circuit, Precinct, Limitt, Continent, Islands, and Places in America, aforesaid, We do by these Presents, for Us, our Heyrs and Successors, name, call, erect, found and establish, and by that Name to have Continuance for ever. And for the better Plantacion, ruling, and governing of the aforesaid New-England, in America, We will, ordaine, constitute, assigne, limitt and appoint, and for Us, our Heyrs and Successors, Wee, by the Advice of the Lords and others of the said priuie Councill, do by these Presents ordaine, constitute, limett, and appoint, that from henceforth, there shall be for ever hereafter, in our Towne of Plymouth, in the County of Devon, one Body politicque and corporate, which shall have perpetuall Succession, which shall consist of the Number of fourtie Persons, and no more, which shall be, and shall be called and knowne by the Name the Councill established at Plymouth, in the County of Devon for the planting, ruling, ordering, and governing of New-England, in America; and for that Purpose Wee have, at and by the Nomination and Request of the said Petitioners, granted, ordained, established, and confirmed; and by these Presents, for Us, our Heyres and Successors, doe grant, ordaine, establish, and confirme, our right trusty and right well beloved Cosins and Councillors Lodowick, Duke of Lenox, Lord Steward of our Houshold, George Lord Marquess Buckingham, our High Admiral of England, James Marquess Hamilton, William Earle of Pembrocke, Lord Chamberlaine of our Houshold, Thomas Earl of Arundel, and our right trusty and right well beloved Cosin, William Earl of Bathe, and right trusty and right well beloved Cosin and Councellor, Henry Earle of Southampton, and our right trusty and right well beloved Cousins, William Earle of Salisbury, and Robert Earle of Warwick, and our right trusty and well beloved John Viscount Haddington, and our right trusty and well beloved Councellor Edward Lord Zouch, Lord Warden of our Cincque Ports, and our trusty and well beloved Edmond Lord Sheffield, Edward Lord Gorges, and our well beloved Sir Edward Seymour, Knight and Barronett, Sir Robert Manselle, Sir Edward Zouch, our Knight Marshall, Sir Dudley Diggs, Sir Thomas Roe, Sir ffերdinando Gorges, Sir Francis Popham, Sir John Brook, Sir Thomas Gates, Sir Richard Hawkins, Sir Richard Edgcombe, Sir Allen Apsley, Sir Warwick Hale, Sir Richard Catchmay, Sir John Bourchier, Sir Nathaniel Rich, Sir Edward Giles, Sir Giles Mompesson, and Sir Thomas Wroth, Knights; and our well beloved Matthew Suttcliffe, Dean of Exeter, Robert Heath, Esq; Recorder of our Cittie of London, Henry Bourchier, John Drake, Rawleigh Gilbert, George Chudley, Thomas Hamon, and John Argall, Esquires, to be in and by these Presents; We do appoint them to be the first moderne and present Councill established at Plymouth, in the County of Devon, for the planting, ruling, ordering, and governing of New-England, in America; and that they, and the Suruiuours of them, and such as the Suruiuours and Suruiuor of them shall, from tyme to tyme elect, and chuse, to make up the aforesaid Number of fourtie Persons, when, and as often as any of them, or any of their Sucessors shall happen to decease, or to be removed from being of the said Councill, shall be in, and by these Presents, incorporated to have a perpetual Succession for ever, in Deed, Fact, and Name, and shall be one Bodye corporate and politicque; and that those, and such said Persons, and their Successors, and such as shall be elected and chosen to succeed them as aforesaid, shall be, and by these Presents are, and be incorporated, named, and called by the Name of the Councill established at Plymouth, in the County of Devon, for the planting, ruling, and governing of New-England, in America; and them the said Duke of Lenox, Marquess Buckingham, Marquess Hamilton, Earle of Pembroke, Earle of Arundell, Earle of Bathe, Earle of Southampton, Earle of Salisbury, Earle of Warwick, Viscount Haddington, Lord Zouch, Lord Sheffield, Lord Gorges, Sir Edward Seymour, Sir Robert Mansell, Sir Edward Zouch, Sir Dudley Diggs, Sir Thomas Roe, Sir fferdinando Gorges, Sir ffrancis Popham, Sir John Brooks, Sir Thomas Gates, Sir Richard Hawkins, Sir Richard Edgcombe, Sir Allen Apsley, Sir Warwick Heale, Sir Richard Catchmay, Sir John Bourchier, Sir Nathaniell Rich, Sir Edward Giles, Sir Giles Mompesson, Sir Thomas Wroth, Knights; Matthew Suttcliffe, Robert Heath, Henry Bourchier, John

Drake, Rawleigh Gilbert, George Chudley, Thomas Haymon, and John Argall, Esqrs. and their successors, one Body corporate and politick, in Deed and Name, by the Name of the Councell established att Plymouth, in the County of Devon, for the planting, ruling, and governing of New-England, in America. Wee do by these Presents, for Us, our Heyres and Successors, really and fully incorporate, erect, ordaine, name, constitute, and establish, and that by the same Name of the said Councill, they and their Successors for ever hereafter be incorporated, named, and called, and shall by the same Name have perpetual Succession. And further, Wee do hereby for Us, our Heires and Successors, grant unto the said Councill established att Plymouth, that they and their Successors, by the same Name, be and shall be, and shall continue Persons able and capable in the Law, from time to time, and shall by that Name, of Councill aforesaid, have full Power and Authority, and lawful Capacity and Hability, as well to purchase, take, hold, receive, enjoy, and to have, and their Successors for ever, any Manors, Lands, Tenements, Rents, Royalties, Privileges, Immunities, Reversions, Annuities, Hereditaments, Goods and Chattles whatsoever, of or from Us, our Heirs, and Successors, and of or from any other Person or Persons whatsoever, as well in and within this our Realme, of England, as in and within any other Place or Places whatsoever or wheresoever; and the same Manors, Lands, Tenements, and Hereditaments, Goods or Chattles, or any of them, by the same Name to alien and sell, or to do, execute, ordaine and performe all other Matters and Things whatsoever to the said Incorporation and Plantation concerning and belonging. And further, our Will and. Pleasure is, that the said Councill, for the time being, and their Successors, shall have full Power and lawful authority, by the Name aforesaid, to sue, and be sued; implead, and to be impleaded; answer, and to be answered, unto all Manner of Courts and Places that now are, or hereafter shall be, within this our Realme and elsewhere, as well temporal as spiritual, in all Manner of Suits and Matters whatsoever, and of what Nature or Kinde soever such Suite or Action be or shall be. And our Will and Pleasure is, that the said ffourty Persons, or the greater Number of them, shall and may, from time to time, and at any time hereafter, at their owne Will and Pleasure, according to the Laws, Ordinances, and Orders of or by them, or by the greater Part of them, hereafter in Manner and forme in these Presents mentioned, to be agreed upon, to elect and choose amongst themselves one of the said ffourty Persons for the Time being, to be President of the said Councill, which President soe elected and chosen, Wee will, shall continue and be President of the said Councill for so long a Time as by the Orders of the said Councill, from time to time to be made, as hereafter is mentioned, shall be thought fitt, and no longer; unto which President, or in his Absence, to any such Person as by the Order of the said Councill shall be thereunto appointed, Wee do give Authority to give Order for the warning of the said Council, and summoning the Company to their Meetings. And our Will and Pleasure is, that from time to time, when and so often as any of the Councill shall happen to decease, or to be removed from being of the said Councell, that then, and so often, the Survivors of them the said Councill, and no other, or the greater Number of them, who then shall be from time to time left remaininge, and who shall, or the greater Number of which that shall be assembled at a public Court or Meeting to be held for the said Company, shall elect and choose one or more other Person or Persons to be of the said Councill, and which from time to time shall be of the said Councill, so that the Number of ffourty Persons of the said Councill may from time to time be supplied: Provided always that as well the Persons herein named to be of the said Councill, as every other Councellor hereafter to be elected, shall be presented to the Lord Chancellor of England, or to the Lord High Treasurer of England, or to the Lord Chamberlaine of the Household of Us, our Heires and Successors for the Time being, to take his and their Oath and Oathes of a Councellor and Councellors to Us, our Heirs and Successors, for the said Company and Collonye in New-England. And further, Wee will and grant by these Presents, for Us, our Heires and Successors, unto the said Councill and their Successors, that they and their Successors shall have and enjoy for ever a Common Seale, to be engraven according to their Discretions; and that it shall be lawfull for them to appoint whatever Seale or Seales, they shall think most meete and necessary, either for their Uses, as they are one united Body incorporate here, or for the publick of their Gouvernour

and Ministers of New-England aforesaid, whereby the Incorporation may or shall seale any Manner of Instrument touching the same Corporation, and the Manors, Lands, Tenements, Rents, Reversions, Annuities, Hereditaments, Goods, Chattles, Affaires, and any other Things belonging unto, or in any wise appertaininge, touching, or concerning the said Councill and their Successors, or concerning the said Corporation and plantation in and by these our Letters-Patents as aforesaid founded, erected, and established. And Wee do further by these Presents, for Us, our Heires and Successors, grant unto the said Councill and their Successors, that it shall and may be lawfull to and for the said Councill, and their Successors for the Time being, in their discretions, from time to time to admitt such and so many Person and Persons to be made free and enabled to trade traffick unto, within, and in New-England aforesaid, and unto every Part and Parcell thereof, or to have, possess, or enjoy, any Lands or Hereditaments in New-England aforesaid, as they shall think fitt, according to the Laws, Orders, Constitutions, and Ordinances, by the said Councill and their Successors from time to time to be made and established by Virtue of, and according to the true Intent of these Presents, and under such Conditions, Reservations, and agreements as the said Councill shall set downe, order and direct, and not otherwise. And further, of our especiall Grace, certaine Knowlege, and mere Motion, for Us, our Heires and Successors, Wee do by these Presents give and grant full Power and Authority to the said Councill and their Successors, that the said Councill for the Time being, or the greater Part of them, shall and may, from time to time, nominate, make, constitute, ordaine, and confirme by such Name or Names, Sale or Sales, as to them shall seeme Good; and likewise to revoke, discharge, change, and alter, as well all and singular, Governors, Officers, and Ministers, which hereafter shall be by them thought fitt and needful to be made or used, as well to attend the Business of the said Company here, as for the Government of the said Collony and Plantation, and also to make, ordaine, and establish all Manner of Orders, Laws, Directions, Instructions, Forms, and Ceremonies of Government and Magistracy fitt and necessary for and concerning the Government of the said Collony and Plantation, so always as the same be not contrary to the Laws and Statutes of this our Realme of England, and the same att all Times hereafter to abrogate, revoke, or change, not only within the Precincts of the said Collony, but also upon the Seas in going and coming to and from the said Collony, as they in their good Discretions shall thinke to be fittest for the good of the Adenturers and Inhabitants there. And Wee do further of our especiall Grace, certaine Knowledge, and mere Motion, grant, declare, and ordain, that such principall Governor, as from time to time shall be authorized and appointed in Manner and Forme in these Presents heretofore expressed, shall haue full Power and Authority to use and exercise marshall Laws in Case of Rebellion, Insurrection and Mutiny, in as large and ample Manner as our Lieutenants in our Counties within our Realme of England have or ought to have by Force of their Commission of Lieutenancy. And for as much as it shall be necessary for all our lovinge Subjects as shall inhabit within the said Precincts of New-England aforesaid, to determine to live together in the Feare and true Worship of Allmighty God, Christian Peace, and civil Quietness, each with other, whereby every one may with more Safety, Pleasure, and Profitt, enjoye that whereunto they shall attaine with great Pain and Perill, Wee, for Us, our Heires and Successors, are likewise pleased and contented, and by these Presents do give and grant unto the said Council and their Successors, and to such Governors, Officers, and Ministers, as shall be by the said Councill constituted and appointed according to the Natures and Limitts of their Offices and Places respectively, that they shall and may, from time to time for ever heerafter, within the said Precincts of New-England, or in the Way by the Seas thither, and from thence have full and absolute Power and Authority to correct, punish, pardon, governe, and rule all such the Subjects of Us, our Heires and Successors, as shall from time to time adventure themselves in any Voyage thither, or that shall att any Time heerafter inhabit in the Precincts or Territories of the said Collony as aforesaid, according to such Laws, Orders, Ordinances, Directions, and Instructions as by the said Councill aforesaid shall be established; and in Defect thereof, in Cases of Necessity, according to the good Discretions of the said Governors and Officers respectively, as well in Cases capitall and criminall, as civill, both marine and others, so allways as the said Statutes,

Ordinances, and Proceedings, as near as conveniently may be, agreeable to the Laws, Statutes, Government and Policie of this our Realme of England. And furthermore, if any Person or Persons, Adventurers or Planters of the said Collony, or any other, att any Time orTimes heereafter, shall transport any Moneys, Goods, or Merchandizes, out of any of our Kingdoms, with a Pretence or Purpose to land, sell, or otherwise dispose of the same within the Limitts and Bounds of the said Collony, and yet nevertheless being att Sea, or after he hath landed within any Part of the said Collony shall carry the same into any other fforaigne Country with a Purpose there to sell and dispose thereof, that then all the Goods and Chattles of the said Person or Persons so offending and transported, together with the Ship or Vessell wherein such Transportation was made, shall be forfeited to Us, our Heires and Successors. And Wee do further of our especiall Grace, certaine Knowledge, and meere Motion for Us, our Heirs and Successors for and in Respect of the Considerations aforesaid, and for divers other good Considerations and Causes, us thereunto especially moving, and by the Advice of the Lords and Others of our said Privy Councill have absolutely giuen, granted, and confirmed, and do by these Presents absolutely give, grant, and confirm unto the said Councill; called the Councell established att Plymouth in the County of Devon for the planting, ruling, and governing of New-England in America, and unto their Successors for ever, all the aforesaid Lands and Grounds, Continent, Precinct, Place, Places and Territoryes, viz. that aforesaid Part of America, lying, and being in Breadth from ffourty Degrees of Northerly Latitude from the Equinoctiall Line, to ffourty-eight Degrees of the said Northerly Latitude inclusively, and in Length of, and within all the Breadth aforesaid, throughout all the Maine Lands from Sea to Sea, together also, with the Firme Lands, Soyles, Grounds, Havens, Ports, Rivers, Waters, Fishings, Mines, and Mineralls, as well Royall Mines of Gold and Silver, as other Mine and Mineralls, precious Stones, Quarries, and all, and singular other Comodities, Jurisdictions, Royalties, Priveliges, Franchises, and Preheminences, both within the same Tract of Land upon the Maine, and also within the said Islands and Seas adjoining: Provided always, that the said Islands, or any of the Premises herein before mentioned, and by these Presents intended and meant to be granted, be not actually possessed or inhabited by any other Christian Prince or Estate, nor be within the Bounds, Limitts, or Territoryes, of that Southern Collony heretofore by us granted to be planted by diverse of our loving Subjects in the South Part, to have and to hold, possess and enjoy, all, and singular, the aforesaid Continent, Lands, Territoryes, Islands, Hereditaments and Precincts, Sea Waters, Fishings, with all, and all Manner their Commodities, Royalties, Liberties, Preheminences, and Profitts, that shall arise from thence, with all and singular, their Appertenances, and every Part and Parcell thereof, and of them, to and unto the said Councell and their Successors and Assignes for ever, to the sole only and proper Use, Benefit, and Behooffe of them the said Council and their Successors and Assignes for ever, to be holden of Us, our Heires, and Successors, as of our Manor of East-Greenwich, in our County of Kent, in free and common Soccage and not in Capite, nor by Knight's Service; yielding and paying therefore to Us, our Heires, our Successors, the fifth Part, of the Ore of Gold and Silver, which from time to time, and att all times heereafter, shall happen to be found, gotten, had, and obtained, in or within any the said Lands, Limitts, Territoryes, and Precincts, or in or within any Part or Parcell thereof, for, or in Respect of all, and all Manner of Dutys, Demands, and Services whatsoever, to be done, made, or paid to Us, our Heires, and Successors. And Wee do further of our especiall Grace, certaine Knowledge, and meere Motion, for Us, and our Heires, and Successors, give and grant to the said Councell, and their Successors for ever by these Presents, that it shall be lawfull and free for them and their Assignes, att all and every time and times hereafter, out of our Realmes or Dominions whatsoever, to take, load, carry, and transport in, and into their Voyages, and for, and towards the said Plantation in New-England, all such and so many of our loveing Subjects, or any other Strangers that will become our loving Subjects, and live under our Allegiance, as shall willingly accompany them in the said Voyages and Plantation, with Shipping, Armour, Weapons, Ordinance, Munition, Powder, Shott, Victuals, and all Manner of Cloathing, Implements, Furniture, Beasts, Cattle, Horses, Mares, and all other Things necessary for the said

Plantation, and for their Use and Defence, and for Trade with the People there, and in passing and returning to and fro, without paying or yielding, any Custom or Subsidie either inward or outward, to Us, our Heires, or Successors, for the same, for the Space of seven Years, from the Day of the Date of these Presents, provided, that none of the said Persons be such as shall be hereafter by special Name restrained by Us, our Heire, or Successors. And for their further Encouragement, of our especiall Grace and Favor, Wee do by these Presents for Us, our Heires, and Successors, yield and grant, to and with the said Councill and their Successors, and every of them, their Factors and Assignes, that they and every of them, shall be free and quitt from all Subsidies and Customes in New England for the Space of seven Years, and from all Taxes and Impositions for the Space of twenty and one Yeares, upon all Goods and Merchandizes att any time or times hereafter, either upon Importation thither, or Exportation from thence into our Realme of England, or into any our Dominions by the said Councill and their Successors, their Deputies, ffactors, and Affignes, or any of them, except only the five Pounds *per Cent:* due for Custome upon all such Goods and Merchandizes, as shall be brot and imported into our Realme of England, or any other of our Dominions, according to the ancient Trade of Marchants; which five Pounds *per Cent.* only being paid, it shall be thenceforth lawful and free for the said Adventurers, the same Goods and Merchandize to export and carry out of our said Dominions into fforraigne Parts, without any Custom, Tax, or other Duty to be paid to Us, our Heires, or Successors, or to any other Officers or Ministers of Us, our Heires, or Successors; provided, that the said Goods and Merchandizes be shipped out within thirteene Months after theire first Landing within any Part of these Dominions. And further our Will and Pleasure is, and Wee do by these Presents charge, comand, warrant, and authorize the said Councill, and their Successors, or the major Part of them, which shall be present and assembled for that Purpose, shall from time to time under their comon Seale, distribute, convey, assigne, and sett over, such particular Portions of Lands, Tenements, and Hereditaments, as are by these Presents, formerly granted unto each our loveing Subjects, naturally borne or Denisons, or others, as well Adventurers as Planters, as by the said Company upon a Comission of Survey and Distribution, executed and returned for that Purpose, shall be named, appointed, and allowed, wherein our Will and Pleasure is, that Respect be had as well to the Proportion of the Adventurers, as to the speciall Service, Hazard, Exploit, or Meritt of any Person so to be recompensed, advanced, or rewarded, and wee do also, for Us, our Heires, and Successors, grant to the said Councell and their Successors and to all and every such Governours, or Officers, or Ministers, as by the said Councill shall be appointed to have Power and Authority of Government and Command in and over the said Collony and Plantation, that they and every of them, shall, and lawfully may, from time to time, and att all Times hereafter for ever, for their severall Defence and Safety, encounter, expulse, repel, and resist by Force of Arms, as well by Sea as by Land, and all Ways and Meanes whatsoever, all such Person and Persons, as without the speciall Licence of the said Councell and their Successors, or the greater Part of them, shall attempt to inhabitt within the said severall Precincts and Limitts of the said Collony and Plantation. And also all, and every such Person or Persons whatsoever, as shall enterprize or attempt att any time hereafter Destruction, Invasion, Detriment, or Annoyance to the said Collony and Plantation; and that it shall be lawfull for the said Councill, and their Successors, and every of them, from Time to Time, and att all Times heereafter, and they shall have full Power and Authority, to take and surprize by all Ways and Means whatsoever, all and every such Person and Persons whatsoever, with their Ships, Goods, and other Furniture, trafficking in any Harbour, Creeke, or Place, within the Limitts and Precintes of the said Collony and Plantations, and not being allowed by the said Councill to be adventurers or Planters of the said Collony. And of our further Royall Favor, Wee have granted, and for Us, our Heires, and Successors, Wee do grant unto the said Councill and their Successors, that the said Territoryes, Lands, Rivers, and Places aforesaid, or any of them, shall not be visited, frequented, or traded unto, by any other of our Subjects, or the Subjects of Us, our Heires, or Successors, either from any the Ports and Havens belonging or appertayning, or which shall belong or appertayne unto Us, our Heires, or Successors, or to any for-

raigne State, Prince, or Pottentate whatsoever: And therefore, Wee do hereby for Us, our Heires, and Successors, charge, command, prohibit and forbid all the Subjects of Us, our Heires, and Successors, of what Degree and Quality soever, they be, that none of them, directly, or indirectly, presume to vissitt, frequent, trade, or adventure to traffick into, or from the said Territoryes, Lands, Rivers, and Places aforesaid, or any of them other than the said Councill and their Successors, ffactors, Deputys, and Assignes, unless it be with the License and Consent of the said Councill and Company first had and obtained in Writing, under the comon Seal, upon Pain of our Indignation and Imprisonment of their Bodys during the Pleasure of Us, our Heires or Successors, and the Forfeiture and Loss both of theire Ships and Goods, wheresoever they shall be found either within any of our Kingdomes or Dominions, or any other Place or Places out of our Dominions. And for the better effecting of our said Pleasure heerein Wee do heereby for Us, our Heires and Successors, give and grant full Power and Authority unto the said Councill, and their Successors for the time being, that they by themselves, their Factors, Deputyes, or Assignes, shall and may from time to time, and at all times heereafter, attach, arrest, take, and seize all and all Manner of Ship and Ships, Goods, Wares, and Merchandizes whatsoever, which shall be bro't from or carried to the Places before mentioned, or any of them, contrary to our Will and Pleasure, before in these Presents expressed. The Moyety or one halfe of all which Forfeitures Wee do hereby for Us, our Heires and Successors, give and grant unto the said Councill, and their Successors to their own proper Use without Accompt, and the other Moyety, or halfe Part thereof, Wee will shall be and remaine to the Use of Us, our Heires and Successors. And we likewise have condiscended and granted, and by these Presents, for Us, our Heires and Successors, do condiscend, and grant to and with the said Councill and their Successors, that Wee, our Heires or Successors, shall not or will not give and grant any Lybertye, License, or Authority to any Person or Persons whatsoever, to saile, trade, or trafficke unto the aforesaid parts of New-England, without the good Will and Likinge of the said Councill, or the greater Part of them for the Time beinge, att any their Courts to be assembled. And Wee do for us, our Heires and Successors, give and grant unto the said Councill, and their Successors, that whensoever, or so often as any Custome or Subsidie shall growe due or payable unto Us, our Heires or Successors, according to the Limitation and Appointment aforesaid by Reason of any Goods, Wares, Merchandizes, to be shipped out, or any Returne to be made of any Goods, Wares, or Merchandizes, unto or from New-England, or any the Lands Territoryes aforesaid, that then so often, and in such Case the ffarmers, Customers, and Officers of our Customes of England and Ireland, and every of them, for the Time being, upon Request made unto them by the said Councill, their Successors, ffactors, or Assignes, and upon convenient Security, to be given in that Behalfe, shall give and allowe unto the said Councill and their Successors, and to all Person and Persons free of the said Company as aforesaid, six Months Time for the Payment of the one halfe of all such Custome and Subsidie, as shall be due, and payable unto Us, our Heires and Successors for the same, for which these our Letters-pattent, or the Duplicate, or the Enrolment thereof, shall be unto our said Officers a sufficient Warrant and Discharge. Nevertheless, our Will and Pleasure is, that if any of the said Goods, Wares, and Merchandizes, which be, or shall be, att any Time heereafter, anded and exported out of any of our Realmes aforesaid, and shall be shipped with a Purpose not to be carried to New-England aforesaid, that then such Payment, Duty, Custome, Imposition, or Forfieture, shall be paid and belong to Us, our Heires, and Successors, for the said Goods, Wares, and Merchandices, so fraudulently sought to be transported, as if this our Grant had not been made nor granted: And Wee do for Us, our Heires and Successors, give and grant unto the said Councill and theire Successors for ever, by these Presents, that the said President of the said Company, or his Deputy for the Time being, or any two others of the said Councill, for the said Collony in New-England, for the Time beinge, shall and may, and att all Times heereafter, and from time to time, have full Power and Authority, to minister and give the Oath and Oaths of Allegiance and Supremacy, or either of them, to all and every Person and Persons, which shall att any Time and Times heereafter, goe or pass to the said Collony in New-England. And further,

that it shall be likewise be lawful for the said President, or his Deputy for the Time being, or any two others of the said Councill for the said Collony of New-England for the Time being, from time to time, and att all Times heerafter, to minister such a formal Oath, as by their Discretion shall be reasonably devised, as well unto any Person and Persons imployed or to be imployed in, for, or touching the said Plantation, for their honest, faithfull, and just Discharge of their Service, in all such Matters as shall be committed unto them for the Good and Benefitt of the said Company, Collony, and Plantation, as also unto such other Person or Persons, as the said President or his Deputy, with two others of the said Councill, shall thinke meete for the Examination or clearing of the Truth in any Cause whatsoever, concerning the said Plantation, or any Business from thence proceeding, or thereunto belonging. And to the End that no lewd or ill-disposed Persons, Saylors, Soldiers, Artificers, Labourers, Husbandmen, or others, which shall receive Wages, Apparel, or other Entertainment from the said Councill, or contract and agree with the said Councill to goe, and to serve, and to be imployed, in the said Plantation, in the Collony in New-England, do afterwards withdraw, hide, and conceale themselves, or refuse to go thither, after they have been so entertained and agreed withall; and that no Persons which shall be sent and imployed in the said Plantation, of the said Collony in New-England, upon the Charge of the said Councill, doe misbehave themselves by mutinous Seditions, or other notorious Misdemeanors, or which shall be imployed, or sent abroad by the Governour of New-England or his Deputy, with any Shipp or Pinnace, for Provision for the said Collony, or for some Discovery, or other Business or Affaires concerninge the same, doe from thence either treacherously come back againe, or returne into the Realme of Englande by Stealth, or without Licence of the Governour of the said Collony in New-England for the Time being, or be sent hither as Misdoers or Offendors; and that none of those Persons after theire Returne from thence, being questioned by the said Councill heere, for such their Misdemeanors and Offences, do, by insolent and contemptuous Carriage in the Presence of the said Councill shew little Respect and Reverence, either to the Place or Authority in which we have placed and appointed them and others, for the clearing of their Lewdness and Misdemeanors committed in New-England, divulge vile and scandalous Reports of the Country of New-England, or of the Government or Estate of the said Plantation and Collony, to bring the said Voyages and Plantation into Disgrace and Contempt, by Meanes whereof, not only the Adventurers and Planters already engaged in the said Plantation may be exceedingly abused and hindered, and a great number of our loveing and well-disposed Subjects, otherways well affected and inclined to joine and adventure in so noble a Christian and worthy Action may be discouraged from the same, but also the Enterprize itself may be overthrowne, which cannot miscarry without some Dishonour to Us and our Kingdome: Wee, therefore, for preventing so great and enormous Abuses and Misdemeanors, Do, by these Presents for Us, our Heires, and Successors, give and grant unto the said President or his Deputy, or such other Person or Persons, as by the Orders of the said Councill shall be appointed by Warrant under his or their Hand or Hands, to send for, or cause to be apprehended, all and every such Person and Persons, who shall be noted, or accused, or found at any time or times heereafter to offend or misbehave themselves in any the Affaires before mentioned and expressed; and upon the Examination of any such Offender or Offenders, and just Proofe made by Oathe taken before the said Councill, of any such notorious Misdemeanours by them comitted as aforesaid, and also upon any insolent, contemptuous, or irreverent Carriage or Misbehaviour, to or against the said Councill, to be shewed or used by any such Person or Persons so called, convened, and appearing before them as aforesaid, that in all such Cases, our said Councill, or any two or more of them for the Time being, shall and may have full Power and Authority, either heere to bind them over with good Sureties for their good Behaviour, and further therein to proceed, to all Intents and Purposes as it is used in other like Cases within our Realme of England, or else at their Discretions to remand and send back the said offenders, or any of them, to the said Collony of New-England, there to be proceeded against and punished as the Governour's Deputy or Councill there for the Time being, shall think meete, or otherwise according to such Laws and Ordinances as are, and shall be, in Use there, for the well ordering and good

Government of the said Collony. And our Will and Pleasure is, and Wee do hereby declare to all Christian Kings, Princes, and States, that if any Person or Persons which shall hereafter be of the said Collony or Plantation, or any other by License or Appointment of the said Councill, or their Successors, or otherwise, shall at any time or times heereafter, rob or spoil, by Sea or by Land, or do any Hurt, Violence, or unlawfull Hostillity to any of the Subjects of Us, our Heires, or Successors, or any of the Subjects of any King, Prince, Ruler, or Governour, or State, being then in League or Amity with Us, our Heires and Successors, and that upon such Injury, or upon just Complaint of such Prince, Ruler, Governour, or State, or their Subjects, Wee, our Heires, or Successors shall make open Proclamation within any of the Ports of our Realme of England commodious for that Purpose, that the Person or Persons having committed any such Robbery or Spoile, shall within the Term limited by such a Proclamation, make full Restitution or Satisfaction of all such Injuries done, so as the said Princes or other, so complaining, may hold themselves fully satisfied and contented. And if that the said Person or Persons having committed such Robery or Spoile, shall not make or cause to be made Satisfaction accordingly within such Terme so to be limited, that then it shall be lawful for Us, our Heires, and Successors, to put the said Person or Persons our of our Allegiance and Protection; and that it shall be lawful and free for all Princes to prosecute with Hostillity the said Offenders and every of them, their, and every of their Procurers, Aidors, Abettors, and Comforters in that Behalfe. And also, Wee do for Us, our Heires, and Successors, declare by these Presents, that all and every the Persons, beinge our Subjects, which shall goe and inhabitt within the said Collony and Plantation, and every of their Children and Posterity, which shall happen to be born within the Limitts thereof, shall have and enjoy all Liberties, and ffranchizes, and Immunities of free Denizens and naturall Subjects within any of our other Dominions, to all Intents and Purposes, as if they had been abidinge and born within this our Kingdome of England, or any other our Dominions. And lastly, because the principall Effect which we can desire or expect of this Action, is the Conversion and Reduction of the People in those Parts unto the true Worship of God and Christian Religion, in which Respect, Wee would be loath that any Person should be permitted to pass that Wee suspected to affect the Superstition of the Chh of Rome, Wee do hereby declare that it is our Will and Pleasure that none be permitted to pass, in any Voyage from time to time to be made into the said Country, but such as shall first have taken the Oathe of Supremacy; for which Purpose, Wee do by these Presents give full Power and Authority to the President of the said Councill, to tender and exhibit the said Oath to all such Persons as shall at any time be sent and imployed in the said Voyage. And Wee also for us, our Heires and Successors, do covenant and grant to and with the Councill, and their Successors, by these Presents, that if the Councill for the time being, and their Successors, or any of them, shall at any time or times heereafter, upon any Doubt which they shall conceive concerning the Strength or Validity in Law of this our present Grant, or be desirous to have the same renewed and confirmed by Us, our Heires and Successors, with Amendment of such Imperfections and Defects as shall appear fitt and necessary to the said Councill, or their Successors, to be reformed and amended on the Behalfe of Us, our Heires and Successors, and for the furthering of the Plantation and Government, or the Increase, continuing, and flourishing thereof, that then, upon the humble Petition of the said Councill for the time being, and their Successors, to us, our Heires and Successors, Wee, our Heires and Successors, shall and will forthwith make and pass under the Great Seall of England, to the said Councill and theire Successors, such further and better Assurance, of all and singular the Lands, Grounds, Royalties, Priveliges, and Premisses aforesaid granted, or intended to be granted, according to our true Intent and Meaneing in these our Letters-patents, signified, declared, or mentioned, as by the learned Councill of Us, our Heires, and Successors, and of the said Company and theire Successors shall, in that Behalfe, be reasonably devised or advised. And further our Will and Pleasure is, that in all Questions and Doubts, that shall arise upon any Difficulty of Instruction or Interpretation of any Thing contained in these our Letters-pattents, the same shall be taken and Interpreted in most ample and beneficial Manner, for the said Council and theire Successors, and every

Member thereof. And Wee do further for Us, our Heires and Successors, charge and comand all and singular Admirals, Vice-Admirals, Generals, Commanders, Captaines, Justices of Peace, Majors, Sheriffs, Bailiffs, Constables, Customers, Comptrollers, Waiters, Searchers, and all the Officers of Us, our Heires and Successors, whatsoever to be from time to time, and att all times heereafter, in all Things aiding, helping, and assisting unto the said Councill, and their Successors, and unto every of them, upon Request and Requests by them to be made, in all Matters and Things, for the furtherance and Accomplishment of all or any the Matters and Things by Us, in and by these our Letters-pattents, given, granted, and provided, or by Us meant or intended to be given, granted, and provided, as they our said Officers, and the Officers of Us, our Heires and Successors, do tender our Pleasure, and will avoid the contrary att their Perills. And Wee also do by these Presents, ratifye and confirm unto the said Councill and their Successors, all Priveliges, ffranchises, Liberties, Immunities granted in our said former Letters-patents, and not in these our Letters-patents revoaked, altered, changed or abridged, altho' express Mention, &c.

In Witnes, *&c.*

Witnes our selfe at *Westminister*, the Third Day of November, in the Eighteenth Yeare of our Reign over England, &c.

Par Breve de Privato Sigillo, &c.

AGREEMENT BETWEEN THE SETTLERS AT NEW PLYMOUTH.*

IN THE NAME OF GOD, AMEN. We, whose names are underwritten, the Loyal Subjects of our dread Sovereign Lord King *James*, by the Grace of God, of *Great Britain*, *France*, and *Ireland*, King, *Defender of the Faith*, &c. Having undertaken for the Glory of God, and Advancement of the Christian Faith, and the Honour of our King and Country, a Voyage to plant the first Colony in the northern Parts of *Virginia;* Do by these Presents, solemnly and mutually, in the Presence of God and one another, covenant and combine ourselves together into a civil Body Politick, for our better Ordering and Preservation, and Furtherance of the Ends aforesaid: And by Virtue hereof do enact, constitute, and frame, such just and equal Laws, Ordinances, Acts, Constitutions, and Officers, from time to time, as shall be thought most meet and convenient for the general Good of the Colony; unto which we promise all due Submission and Obedience. IN WITNESS whereof we have hereunto subscribed our names at *Cape-Cod* the eleventh of *November*, in the Reign of our Sovereign Lord King *James*, of *England*, *France*, and *Ireland*, the eighteenth, and of *Scotland*, the fifty-fourth, *Anno Domini*, 1620.

John Carver,	Samuel Fuller,	Edward Tilly,
William Bradford,	Christopher Martin,	John Tilly,
Edward Winslow,	William Mullins,	Francis Cooke,
William Brewster,	William White,	Thomas Rogers,
Isaac Allerton,	Richard Warren,	Thomas Tinker,
Miles Standish,	John Howland,	John Ridgdale,
John Alden,	Steven Hopkins,	Edward Fuller,
John Turner,	Digery Priest,	Richard Clark,
Francis Eaton,	Thomas Williams,	Richard Gardiner,
James Chilton,	Gilbert Winslow,	John Allerton,
John Craxton,	Edmund Margesson,	Thomas English,
John Billington,	Peter Brown,	Edward Doten,
Joses Fletcher,	Richard Bitteridge,	Edward Liester.
John Goodman,	George Soule,	

* The "Pilgrims" who landed at Plymouth had procured before leaving Europe a grant of land from the London or South Virginia Company, but had subsequently decided to establish a colony in New England. Before leaving the ship which had brought them across the Atlantic they drew up this compact. They obtained several successive letters-patent from the Plymouth Company, but none of them were confirmed by the Crown, and in 1691 the Plymouth colony was annexed to Massachusetts Bay.

THE CHARTER OF MASSACHUSETTS BAY—1629.*

CHARLES, BY THE GRACE OF GOD, Kinge of England, Scotland, Fraunce, and Ireland, Defendor of the Fayth, &c. To ALL to whome theis Presents shall come Greeting. WHEREAS, our most Deare and Royall Father, Kinge James, of blessed Memory, by his Highnes Letters-patents bearing Date at Westminster the third Day of November, in the eighteenth Yeare of his Raigne, HATH given and graunted vnto the Councell established at Plymouth, in the County of Devon, for the planting, ruling, ordering, and governing of Newe England in America, and to their Successors and Assignes for ever, all that Parte of America, lyeing and being in Bredth, from Forty Degrees of Northerly Latitude from the Equinoctiall Lyne, to forty eight Degrees of the saide Northerly Latitude inclusively, and in Length, of and within all the Breadth aforesaid, throughout the Maine Landes from Sea to Sea; together also with all the Firme Landes, Soyles, Groundes, Havens, Portes, Rivers, Waters, Fishing, Mynes, and Myneralls, aswell Royall Mynes of Gould and Silver, as other Mynes and Mineralls, precious Stones, Quarries, and all and singular other Comodities, Jurisdiccons, Royalties, Priviledges, Franchesies, and Prehemynences, both within the said Tract of Land vpon the Mayne, and also within the Islandes and Seas adioining: PROVIDED alwayes, That the saide Islandes, or any the Premisses by the said Letters-patents intended and meant to be graunted, were not then actuallie possessed or inhabited, by any other Christian Prince or State, nor within the Boundes, Lymitts, or Territories of the Southerne Colony, then before graunted by our saide Deare Father, to be planted by divers of his loveing Subiects in the South Partes. TO HAVE and to houlde, possess, and enioy all and singular the aforesaid Continent, Landes, Territories, Islandes, Hereditaments, and Precincts, Seas, Waters, Fishings, with all, and all Manner their Comodities, Royalties, Liberties, Prehemynences, and Proffitts that should from thenceforth arise from thence, with all and singuler their Appurtenances, and every Parte and Parcell thereof, vnto the saide Councell and their Successors and Assignes for ever, to the sole and proper Vse, Benefitt, and Behoofe of them the saide Councell, and their Successors and Assignes for ever: To be houlden of our saide most Deare and Royall Father, his Heires and Successors, as of his Mannor of East Greenewich in the County of Kent, in free and comon Soccage, and not in Capite nor by Knight's Service: YEILDINGE and paying therefore to the saide late Kinge, his Heires and Successors, the fifte Parte of the Oare of Gould and Silver, which should from tyme to tyme, and at all Tymes then after happen to be found, gotten, had, and obteyned in, att, or within any of the saide Landes, Lymitts, Territories, and Precincts, or in or within any Parte or Parcell thereof, for or in Respect of all and all Manner of Duties, Demaunds and Services whatsoever, to be don, made, or paide to our saide Dear Father the late Kinge his Heires and Successors, as in and by the saide Letters-patents (amongst sundrie other Clauses, Powers, Priviledges, and Grauntes therein conteyned, more at large appeareth: AND WHEREAS, the saide Councell established at Plymouth, in the County of Devon, for the plantinge, ruling, ordering, and governing of Newe England in America, have by their Deede, indented vnder their Comon Seale, bearing Date the nyneteenth Day of March last past, in the third Yeare of our Raigne, given, graunted, bargained, soulde, enfeoffed, aliened, and confirmed to Sir Henry Rosewell, Sir John Young, Knightes, Thomas Southcott, John Humphrey, John Endecott, and Symon Whetcombe, their Heires and Assignes, and their Associats for ever, all that Parte of Newe England in America aforesaid, which lyes and extendes betweene a greate River there comonlie called Monomack alias Merriemack, and a certen other River there, called Charles River, being in the Bottome of a certayne Bay there, comonlie called Massachusetts, alias Mattachusetts, alias Massatusetts Bay, and also all and singuler those Landes and Hereditaments whatsoever, lyeing within the

* Lord Sheffield gave a patent in January, 1823, to the New England Company, for the location of a colony at Cape Anne. It was established, but the new settlement did not thrive, and this charter was obtained March 4, 1628–'29. The officers provided for in it were appointed at Plymouth, in England, but under a resolution adopted by the company, August 29, 1629, the seat of government was transferred to Massachusetts.



Space of three English Myles on the South Parte of the said Charles River, or of any, or everie Parte thereof; and also, all and singuler the Landes and Hereditaments whatsoever, lyeing and being within the Space of three English Myles to the Southwarde of the Southermost Parte of the saide Bay called Massachusetts, alias Mattachusetts, alias Massatusets Bay; and also, all those Landes and Hereditaments whatsoever, which lye, and be within the space of three English Myles to the Northward of the said River called Monomack, alias Merrymack, or to the Northward of any and every Parte thereof, and all Landes and Hereditaments whatsoever, lyeing within the Lymitts aforesaide, North and South in Latitude and bredth, and in Length and Longitude, of and within all the Bredth aforesaide, throughout the Mayne Landes there, from the Atlantick and Westerne Sea and Ocean on the East Parte, to the South Sea on the West Parte; and all Landes and Groundes, Place and Places, Soyles, Woodes and Wood Groundes, Havens, Portes, Rivers, Waters, Fishings, and Hereditaments whatsoever, lyeing within the said Boundes and Lymytts, and everie Parte and Parcell thereof; and also, all Islandes lyeing in America aforesaide, in the saide Seas or either of them, on the Westerne or Eastern Coastes or Partes of the said Tractes of Lande, by the saide Indenture mencōed to be given, graunted, bargained, sould, enfeoffed, aliened, and confirmed, or any of them; and also, all Mynes and Myneralls, as well Royall Mynes of Gould and Silver, as other Mynes and Myneralls whatsoeuer, in the saide Lands and Premisses, or any Parte thereof; and all Jurisdiccons, Rights, Royalties, Liberties, Freedomes, Ymmunities, Priviledges, Franchises, Preheminences, and Comodities whatsoever, which they, the said Councell established at Plymouth, in the County of Devon, for the planting, ruling, ordering, and governing of Newe England in America, then had, or might vse, exercise, or enjoy, in or within the saide Landes and Premisses by the saide Indenture mencōed to be given, graunted, bargained, sould, enfeoffed, and confirmed, or in, or within any Parte or Parcell thereof: To HAVE and to hould, the saide Parte of Newe England in America, which lyes and extendes and is abutted as aforesaide, and every Parte and Parcell thereof; and all the saide Islandes, Rivers, Portes, Havens, Waters, Fishings, Mynes, and Myneralls, Jurisdiccons, Franchises, Royalties, Liberties, Priviledges, Comodities, Hereditaments, and Premisses whatsoever, with the Appurtenances vnto the saide Sir Henry Rosewell, Sir John Younge, Thomas Southcott, John Humfrey, John Endecott, and Simon Whetcombe, their Heires and Assignes, and their Associatts, to the onlie proper and absolute vse and Behoofe of the said Sir Henry Rosewell, Sir John Younge, Thomas Southcott, John Humfrey, John Endecott, and Simon Whettcombe, their Heires and Assignes, and their Associatts forevermore; To BE HOULDEN of Vs, our Heires and Successors, as of our Mannor of Eastgreenwich, in the County of Kent, in free and comon Soccage, and not in Capite, nor by Knightes Service; YEILDING and payeing therefore vnto Vs, our Heires and Successors, the fifte Parte of the Oare of Goulde and Silver, which shall from Tyme to Tyme, and at all Tymes hereafter, happen to be founde, gotten, had, and obteyned in any of the saide Landes, within the saide Lymitts, or in or within any Parte thereof, for, and in Satisfaccon of all manner Duties, Demaundes, and Services whatsoever to be donn, made, or paid to Vs, our Heires or Successors, as in and by the said recited Indenture more at large maie appeare. NOWE Knowe Yee, that Wee, at the humble Suite and Peticon of the saide Sir Henry Rosewell, Sir John Younge, Thomas Southcott, John Humfrey, John Endecott, and Simon Whetcombe, and of others whome they have associated vnto them, HAVE, for divers good Causes and consideracons, vs moveing, graunted and confirmed, and by theis Presents of our especiall Grace, certen Knowledge, and meere Mocon, doe graunt and confirme vnto the saide Sir Henry Rosewell, Sir John Younge, Thomas Southcott, John Humfrey, John Endecott, and Simon Whetcombe, and to their Associatts hereafter named; (videlicet) Sir Richard Saltonstall, Knight, Isaack Johnson, Samuel Aldersey, John Ven, Mathew Cradock, George Harwood, Increase Nowell, Richard Perry, Richard Bellingham, Nathaniell Wright, Samuel Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuell Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcrofte,

their Heires and Assignes, all the saide Parte of Newe England in America, lyeing and extending betweene the Boundes and Lymytts in the said recited Indenture expressed, and all Landes and Groundes, Place and Places, Soyles, Woods and Wood Groundes, Havens, Portes, Rivers, Waters, Mynes, Mineralls, Jurisdicc̃ons, Rightes, Royalties, Liberties, Freedomes, Immunities, Priviledges, Franchises, Preheminences, Hereditaments, and Comodities whatsoever, to them the saide Sir Henry Rosewell, Sir John Younge, Thomas Southcott, John Humfrey, John Endecott, and Simon Whetcombe, theire Heires and Assignes, and to their Associatts, by the saide recited Indenture, given, graunted, bargayned, solde, enfeoffed, aliened, and confirmed, or mencõed, or intended thereby to be given, graunted, bargayned, sold, enfeoffed, aliened, and confirmed: To HAVE, and to hould, the saide Parte of Newe England in America, and other the Premisses hereby menc̃oed to be graunted and confirmed, and every Parte and Parcell thereof with the Appurtennces, to the saide Sir Henry Rosewell, Sir John Younge, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endecott, Simon Whetcombe, Isaack Johnson, Richard Pery, Richard Bellingham, Nathaniell Wright, Samuell Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuel Browne, Thomas Hutchins, Samuel Aldersey, John Ven, Mathewe Cradock, George Harwood, Increase Nowell, William Vassall, William Pinchion, and George Foxcrofte, their Heires and Assignes forever, to their onlie proper and absolute Vse and Behoofe for evermore; To be holden of Vs, our Heires and Successors, as of our Mannor of Eastgreenewich aforesaid, in free and cōmon Socage, and not in Capite, nor by Knights Service; AND ALSO YEILDING and paying therefore to Vs, our Heires and Successors, the fifte parte onlie of all Oare of Gould and Silver, which from tyme to tyme, and att all tymes hereafter shalbe there gotten, had, or obteyned, for all Services, Exaccons and Demaundes whatsoever, according to the Tenure and Reservacon in the said recited Indenture expressed. AND FURTHER, knowe yee, that of our more especiall Grace, certen Knowledg, and meere moc̃on, Wee have given and graunted, and by theis Presents, doe for Vs, our Heires and Successors, give and graunte vnto the saide Sir Henry Rosewell, Sir John Younge, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endecott, Symon Whetcombe, Isaack Johnson, Samuell Aldersey, John Ven, Mathewe Cradock, George Harwood, Increase Nowell, Richard Pery, Richard Bellingham, Nathaniel Wright, Samuell Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuell Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcrofte, their Heires and Assignes, all that Parte of Newe England in America, which lyes and extendes betweene a great River there, comonlie called Monomack River, alias Merrimack River, and a certen other River there, called Charles River, being in the Bottome of a certen Bay there, cōmonlie called Massachusetts, alias Mattachusetts, alias Massatusetts Bay; and also all and singuler those Landes and Hereditaments whatsoever, lying within the Space of Three Englishe Myles on the South Parte of the said River, called Charles River, or of any or every Parte thereof; and also all and singuler the Landes and Hereditaments whatsoever, lying and being within the Space of Three Englishe Miles to the southward of the southermost Parte of the said Baye, called Massachusetts, alias Mattachusetts, alias Massatusets Bay: And also all those Landes and Hereditaments whatsoever, which lye and be within the Space of Three English Myles to the Northward of the saide River, called Monomack, alias Merrymack, or to the Norward of any and every Parte thereof, and all Landes and Hereditaments whatsoever, lyeing within the Lymitts aforesaide, North and South, in Latitude and Bredth, and in Length and Longitude, of and within all the Bredth aforesaide, throughout the mayne Landes there, from the Atlantick and Westerne Sea and Ocean on the East Parte, to the South Sea on the West Parte; and all Landes and Groundes, Place and Places, Soyles, Woodes, and Wood Groundes, Havens, Portes, Rivers, Waters, and Hereditaments whatsoever, lyeing within the said Boundes and Lymytts, and every Parte and Parcell thereof; and also all Islandes in America aforesaide, in the saide Seas, or either of them, on the Westerne or Easterne Coastes, or Partes of the saide Tracts of Landes hereby mencõed to be given and graunted, or any of them; and all Mynes and Mynerals what-

soever, in the said Landes and Premisses, or any parte thereof, and free Libertie of fishing in or within any the Rivers or Waters within the Boundes and Lymytts aforesaid, and the Seas therevnto adjoining; and all Fishes, Royal Fishes, Whales, Balan, Sturgions, and other Fishes of what Kinde or Nature soever, that shall at any time hereafter be taken in or within the saide Seas or Waters, or any of them, by the said Sir Henry Rosewell, Sir John Younge, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endecott, Simon Whetcombe, Isaack Johnson, Samuell Aldersey, John Ven, Mathewe Cradock, George Harwood, Increase Noell, Richard Pery, Richard Bellingham, Nathaniell Wright, Samuell Vassell, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuell Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcrofte, their Heires and Assignes, or by any other person or persons whatsoever there inhabiting, by them, or any of them, to be appointed to fishe therein. PROVIDED alwayes, That yf the said Landes, Islandes, or any other the Premisses herein before mencōned, and by theis presents, intended and meant to be graunted, were at the tyme of the graunting of the saide former Letters patents, dated the Third Day of November, in the Eighteenth Yeare of our said deare Fathers Raigne aforesaide, actuallie possessed or inhabited by any other Christian Prince or State, or were within the Boundes, Lymytts or Territories of that Southerne Colony, then before graunted by our said late Father, to be planted by divers of his loveing Subiects in the south partes of America, That then this present Graunt shall not extend to any such partes or parcells thereof, soe formerly inhabited, or lyeing within the Boundes of the Southerne Plantacōn as aforesaide, but as to those partes or parcells soe possessed or inhabited by such Christian Prince or State, or being within the Bounders aforesaide shal be vtterlie voyd, theis presents or any Thinge therein conteyned to the contrarie notwithstanding. To HAVE and hould, possesse and enioy the saide partes of New England in America, which lye, extend, and are abutted as aforesaide, and every parte and parcell thereof; and all the Islandes, Rivers, Portes, Havens, Waters, Fishings, Fishes, Mynes, Myneralls, Jurisdiccōns, Franchises, Royalties, Liberties, Priviledges, Cōmodities, and Premisses whatsoever, with the Appurtenances, vnto the said Sir Henry Rosewell, Sir John Younge, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endecott, Simon Whetcombe, Isaack Johnson, Samuell Aldersey, John Ven, Mathewe Cradock, George Harwood, Increase Nowell, Richard Perry, Richard Bellingham, Nathaniell Wright, Samuell Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuell Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcroft, their Heires and Assignes forever, to the onlie proper and absolute Vse and Behoufe of the said Sir Henry Rosewell, Sir John Younge, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endecott, Simon Whetcombe, Isaac Johnson, Samuell Aldersey, John Ven, Mathewe Cradocke, George Harwood, Increase Nowell, Richard Pery, Richard Bellingham, Nathaniell Wright, Samuell Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuell Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcroft, their Heires and Assignes forevermore: To BE HOLDEN of Vs, our Heires and Successors, as of our Manor of Eastgreenwich in our Countie of Kent, within our Realme of England, in free and comon Soccage, and not in Capite, nor by Knights Service; and also yeilding and paying therefore, to Vs, our Heires and Successors, the fifte Parte onlie of all Oare of Gould and Silver, which from tyme to tyme, and at all tymes hereafter, shal be there gotten, had, or obteyned, for all Services, Exaccons, and Demaundes whatsoever; PROVIDED alwaies, and our expresse Will and Meaninge is, that onlie one fifte Parte of the Gould and Silver Oare above mencōed, in the whole, and noe more be reserved or payeable vnto Vs, our Heires and Successors, by Collour or Vertue of theis Presents, the double Reservacōns or recitalls aforesaid or any Thing herein conteyned notwithstanding. AND FORASMUCH, as the good and prosperous Successe of the Plantacon of the saide Partes of Newe-England aforesaide intended by the said Sir Henry Rosewell, Sir John Younge, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endecott, Simon Whetcombe, Isaack Johnson, Samuell Aldersey, John Ven, Mathew Cradock, George Harwood,

Increase Noell, Richard Pery, Richard Bellingham, Nathaniell Wright, Samuell Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuell Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcrofte, to be speedily sett vpon, cannot but cheifly depend, next vnder the Blessing of Almightie God, and the support of our Royall Authoritie vpon the good Government of the same, To the Ende that the Affaires and Buyssinesses which from tyme to tyme shall happen and arise concerning the saide Landes, and the Plantation of the same maie be the better mannaged and ordered, WEE HAVE FURTHER hereby of our especial Grace, certain Knowledge and mere Mocōn, Given, graunted and confirmed, and for Vs, our Heires and Successors, doe give, graunt, and confirme vnto our said trustie and welbeloved subiects Sir Henry Rosewell, Sir John Younge, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endicott, Simon Whetcombe, Isaack Johnson, Samuell Aldersey, John Ven, Mathewe Cradock, George Harwood, Increase Nowell, Richard Pery, Richard Bellingham, Nathaniell Wright, Samuell Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuell Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcrofte: AND for Vs, our Heires and Successors, Wee will and ordeyne, That the saide Sir Henry Rosewell, Sir John Young, Sir Richard Saltonstall, Thomas Southcott, John Humfrey, John Endicott, Symon Whetcombe, Isaack Johnson, Samuell Aldersey, John Ven, Mathewe Cradock, George Harwood, Increase Noell, Richard Pery, Richard Bellingham, Nathaniell Wright, Samuell Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuell Browne, Thomas Hutchins, William Vassall, William Pinchion, and George Foxcrofte, and all such others as shall hereafter be admitted and made free of the Company and Society hereafter mencōed, shall from tyme to tyme, and att all tymes forever hereafter be, by Vertue of theis presents, one Body corporate and politique in Fact and Name, by the Name of the Governor and Company of the Mattachusetts Bay in Newe-England, and them by the Name of the Governour and Company of the Mattachusetts Bay in Newe-England, one Bodie politique and corporate, in Deede, Fact, and Name; Wee doe for vs, our Heires and Successors, make, ordeyne, constitute, and confirme by theis Presents, and that by that name they shall have perpetuall Succession, and that by the same Name they and their Successors shall and maie be capeable and enabled aswell to implead, and to be impleaded, and to prosecute, demaund, and aunswere, and be aunsweared vnto, in all and singuler Suites, Causes, Quarrells, and Accons, of what kinde or nature soever. And also to have, take, possesse, acquire, and purchase any Landes, Tenements, or Hereditaments, or any Goodes or Chattells, and the same to lease, graunte, demise, alien, bargaine, sell, and dispose of, as other our liege People of this our Realme of England, or any other corporacon or Body politique of the same may lawfully doe. AND FURTHER, That the said Governour and Companye, and their Successors, maie have forever one comon Seale, to be vsed in all Causes and Occasions of the said Company, and the same Seale may alter, chaunge, breake, and newe make, from tyme to tyme, at their pleasures. And our Will and Pleasure is, and Wee doe hereby for Vs, our Heires and Successors, ordeyne and graunte, That from henceforth for ever, there shalbe one Governor, one Deputy Governor, and eighteene Assistants of the same Company, to be from tyme to tyme constituted, elected and chosen out of the Freemen of the saide Company, for the tyme being, in such Manner and Forme as hereafter in theis Presents is expressed, which said Officers shall applie themselves to take Care for the best disposeing and ordering of the generall buysines and Affaires of, for, and concerning the said Landes and Premisses hereby mencōed, to be graunted, and the Plantacion thereof, and the Government of the People there. AND FOR the better Execucon of our Royall Pleasure and Graunte in this Behalf, WEE doe, by theis presents, for Vs, our Heires and Successors, nominate, ordeyne, make, & constitute, our welbeloved the saide Mathewe Cradocke, to be the first and present Governor of the said Company, and the saide Thomas Goffe, to be Deputy Governor of the saide Company, and the saide Sir Richard Saltonstall, Isaack Johnson, Samuell Aldersey, John Ven, John Humfrey, John Endecott, Simon Whetcombe, Increase Noell, Richard Pery, Nathaniell Wright, Samuell Vassall, Theophilus Eaton, Thomas Adams, Thomas Hutchins,

John Browne, George Foxcrofte, William Vassall, and William Pinchion, to be the present Assistants of the saide Company, to continue in the saide several Offices respectivelie for such tyme, and in such manner, as in and by theis Presents is hereafter declared and appointed. AND FURTHER, Wee will, and by theis Presents, for Vs, our Heires and Successors, doe ordeyne and graunte, That the Governor of the saide Company for the tyme being, or in his Absence by Occasion of Sicknes or otherwise, the Deputie Governor for the tyme being, shall have Authoritie from tyme to tyme vpon all Occasions, to give order for the assembling of the saide Company, and calling them together to consult and advise of the Bussinesses and Affaires of the saide Company, and that the said Governor, Deputie Governor, and Assistants of the saide Company, for the tyme being, shall or maie once every Moneth, or oftener at their Pleasures, assemble and houlde and keepe a Courte or Assemblie of themselves, for the better ordering and directing of their Affaires, and that any seaven or more persons of the Assistants, togither with the Governor, or Deputie Governor soe assembled, shalbe saide, taken, held, and reputed to be, and shalbe a full and sufficient Courte or Assemblie of the said Company, for the handling, ordering, and dispatching of all such Buysinesses and Occurrents as shall from tyme to tyme happen, touching or concerning the said Company or Plantacon; and that there shall or maie be held and kept by the Governor, or Deputie Governor of the said Company, and seaven or more of the said Assistants for the tyme being, vpon every last Wednesday in Hillary, Easter, Trinity, and Michas Termes respectivelie forever, one greate generall and solempe assemblie, which foure generall assemblies shalbe stiled and called the foure greate and generall Courts of the saide Company; IN all and every, or any of which saide greate and generall Courts soe assembled, WEE DOE for Vs, our Heires and Successors, give and graunte to the said Governor and Company, and their Successors, That the Governor, or in his absence, the Deputie Governor of the saide Company for the tyme being, and such of the Assistants and Freemen of the saide Company as shalbe present, or the greater nomber of them so assembled, whereof the Governor or Deputie Governor and six of the Assistants at the least to be seaven, shall have full Power and authoritie to choose, nominate, and appointe, such and soe many others as they shall thinke fitt, and that shall be willing to accept the same, to be free of the said Company and Body, and them into the same to admitt; and to elect and constitute such Officers as they shall thinke fitt and requisite, for the ordering, mannaging, and dispatching of the Affaires of the saide Govenor and Company, and their Successors; And to make Lawes and Ordinnces for the Good and Welfare of the saide Company, and for the Government and ordering of the saide Landes and Plantacon, and the People inhabiting and to inhabite the same, as to them from tyme to tyme shalbe thought meete, soe as such Lawes and Ordinances be not contrarie or repugnant to the Lawes and Statuts of this our Realme of England. AND, our Will nd Pleasure is, and Wee doe hereby for Vs, our Heires and Successors, establish and ordeyne, That yearely once in the yeare, for ever hereafter, namely, the last Wednesday in Easter Tearme, yearely, the Governor, Deputy-Governor, and Assistants of the saide Company and all other officers of the saide Company shalbe in the Generall Court or Assembly to be held for that Day or Tyme, newly chosen for the Yeare ensueing by such greater parte of the said Company, for the Tyme being, then and there present, as is aforesaide. AND, yf it shall happen the present governor, Deputy Governor, and assistants, by theis presents appointed, or such as shall hereafter be newly chosen into their Roomes, or any of them, or any other of the officers to be appointed for the said Company, to dye, or to be removed from his or their severall Offices or Places before the saide generall Day of Eleccon (whome Wee doe hereby declare for any Misdemeanor or Defect to be removeable by the Governor, Deputie Governor, Assistants, and Company, or such greater Parte of them in any of the publique Courts to be assembled as is aforesaid) That then, and in every such Case, it shall and maie be lawfull, to and for the Governor, Deputie Governor, Assistants, and Company aforesaide, or such greater Parte of them soe to be assembled as is aforesaide, in any of their Assemblies, to proceade to a new Eleccon of one or more others of their Company in the Roome or Place, Roomes or Places of such Officer or Officers soe dyeing or removed according to their Discrecons, And, ymediately vpon and after

such Eleccõn and Eleccõns made of such Governor, Deputie Governor, Assistant or Assistants, or any other officer of the saide Company, in Manner and Forme aforesaid, the Authoritie, Office, and Power, before given to the former Governor, Deputie Governor, or other Officer and Officers soe removed, in whose Steade and Place newe shalbe soe chosen, shall as to him and them, and everie of them, cease and determine. PROVIDED alsoe, and our Will and Pleasure is, That aswell such as are by theis Presents appointed to be the present Governor, Deputie Governor, and Assistants of the said Company, as those that shall succeed them, and all other Officers to be appointed and chosen as aforesaid, shall, before they vndertake the Execucon of their saide Offices and Places respectivelie, take their Corporal Oathes for the due and faithfull Performance of their Duties in their severall Offices and Places, before such Person or Persons as are by theis Presents herevnder appointed to take and receive the same; That is to saie, the saide Mathewe Cradock, whoe is hereby nominated and appointed the present Governor of the saide Company, shall take the saide Oathes before one or more of the Masters of our Courte of Chauncery for the Tyme being, vnto which Master or Masters of the Chauncery, Wee doe by theis Presents give full Power and Authoritie to take and administer the said Oathe to the said Governor accordinglie: And after the saide Governor shalbe soe sworne, then the said Deputy Governor and Assistants, before by theis Presents nominated and appointed, shall take the said severall Oathes to their Offices and Places respectivelie belonging, before the said Mathew Cradock, the present Governor, soe formerlie sworne as aforesaide. And every such Person as shallbe at the Tyme of the annuall Eleccon, or otherwise, vpon Death or Removeall, be appointed to be the newe Governor of the said Company, shall take the Oathes to that Place belonging, before the Deputy Governor, or two of the Assistants of the said Company at the least, for the Tyme being: And the newe elected Deputie Governor and Assistants, and all other officers to be hereafter chosen as aforesaide from Tyme to Tyme, to take the Oathes to their places respectivelie belonging, before the Governor of the said Company for the Tyme being, vnto which said Governor, Deputie Governor, and assistants, Wee doe by theis Presents give full Power and Authoritie to give and administer the said Oathes respectively, according to our true Meaning herein before declared, without any Comission or further Warrant to be had and obteyned of of Vs, our Heires or Successors, in that Behalf. AND, Wee doe further, of our especial Grace, certen Knowledge, and meere mocon, for Vs, our Heires and Successors, give and graunte to the said Governor and Company, and their Successors for ever by theis Presents, That it shalbe lawfull and free for them and their Assignes, at all and every Tyme and Tymes hereafter, out of any our Realmes or Domynions whatsoever, to take, leade, carry, and transport, for in and into their Voyages, and for and towardes the said Plantacon in Newe England, all such and soe many of our loving Subjects, or any other strangers that will become our loving Subjects, and live under our Allegiance, as shall willinglie accompany them in the same Voyages and Plantacon; and also Shipping, Armour, Weapons, Ordinance, Municon, Powder, Shott, Corne, Victualls, and all Manner of Clothing, Implements, Furniture, Beastes, Cattle, Horses, Mares, Marchandizes, and all other Thinges necessarie for the saide Plantacõn, and for their Vse and Defence, and for Trade with the People there, and in passing and returning to and fro, any Lawe or Statute to the contrarie hereof in any wise notwithstanding; and without payeing or yeilding any Custome or Subsidie, either inward or outward, to Vs, our Heires or Successors, for the same, by the Space of seaven Yeares from the Day of the Date of theis Presents. PROVIDED, that none of the saide Persons be such as shalbe hereafter by especiall Name restrayned by Vs, our Heires or Successors. AND, for their further Encouragement, of our especiall Grace and Favor, Wee doe by theis Presents, for Vs, our Heires and Successors, yeild and graunt to the saide Governor and Company, and their Successors, and every of them, their Factors and Assignes, That they and every of them shalbe free and quitt from all Taxes, Subsidies, and Customes, in Newe England, for the like Space of seaven Yeares, and from all Taxes and Imposicõns for the Space of twenty and one Yeares, vpon all Goodes and Merchandizes at any Tyme or Tymes hereafter, either vpon Importa-

cōn thither, or Exportacōn from thence into our Realme of England, or into any other our Domynions by the said Governor and Company, and their Successors, their Deputies, Factors, and Assignes, or any of them; EXCEPT onlie the five Pounds per Centum due for Custome vpon all such Goodes and Merchandizes as after the saide seaven Yeares shalbe expired, shalbe brought or imported into our Realme of England, or any other of our Dominions, according to the auncient Trade of Merchants, which five Poundes per Centum onlie being paide, it shall be thenceforth lawfull and free for the said Adventurers, the same Goodes and Merchandizes to export and carry out of our said Domynions into forraine Partes, without any Custome, Tax, or other Dutie to be paid to Vs, our Heires or Successors, or to any other Officers or Ministers of Vs, our Heires and Successors. PROVIDED, that the said Goodes and Merchandizes be shipped out within thirteene Monethes, after their first Landing within any Parte of the saide Domynions. AND, Wee doe for Vs, our Heires and Successors, give and graunte vnto the saide Governor and Company, and their Successors, That whensoever, or soe often as any Custome or Subsedie shall growe due or payeable vnto Vs, our Heires, or Successors, according to the Lymittacon and Appointment aforesaide, by Reason of any Goodes, Wares, or Merchandizes to be shipped out, or any Retorne to be made of any Goodes, Wares, or Merchandize vnto or from the said Partes of Newe England hereby mencōed to be graunted as aforesaide, or any the Landes or Territories aforesaide, That then, and soe often, and in such Case, the Farmors, Customers, and Officers of our Customes of England and Ireland, and everie of them for the Tyme being, vpon Request made to them by the saide Governor and Company, or their Successors, Factors, or Assignes, and vpon convenient Security to be given in that Behalf, shall give and allowe vnto the said Governor and Company, and their Successors, and to all and everie Person and Persons free of that Company, as aforesaide, six Monethes Tyme for the Payement of the one halfe of all such Custome and Subsidy as shalbe due and payeable unto Vs, our Heires and Successors, for the same; for which theis our Letters patents, or the Duplicate, or the inrollem[t] thereof, shalbe vnto our saide Officers a sufficient Warrant and Discharge. NEVERTHELES, our Will and Pleasure is, That yf any of the saide Goodes, Wares, and Merchandize, which be, or shalbe at any Tyme hereafter landed or exported out of any of our Realmes aforesaide, and shalbe shipped with a Purpose not to be carried to the Partes of Newe England aforesaide, but to some other place, That then such Payment, Dutie, Custome, Imposicōn, or Forfeyture, shalbe paid, or belonge to Vs, our Heires and Successors, for the said Goodes, Wares, and Merchandize, soe fraudulently sought to be transported, as yf this our Graunte had not been made nor graunted. AND, Wee doe further will, and by theis Presents, for Vs, our Heires and Successors, firmlie enioine and cōmaunde, as well the Treasorer, Chauncellor and Barons of the Exchequer, of Vs, our Heires and Successors, as also all and singuler the Customers, Farmors, and Collectors of the Customes, Subsidies, and Imposts, and other the Officers and Ministers of Vs, our Heires and Successors whatsoever, for the Tyme Being, That they and every of them, vpon the shewing forth vnto them of theis Letters patents, or the Duplicate or exemplificacōn of the same, without any other Writt or Warrant whatsoever from Vs, our Heires or Successors, to be obteyned or sued forth, doe and shall make full, whole, entire, and due Allowance, and cleare Discharge vnto the saide Governor and Company, and their Successors, of all Customes, Subsidies, Imposicōns, Taxes and Duties whatsoever, that shall or maie be claymed by Vs, our Heires and Successors, of or from the said Governor and Company, and their Successors, for or by Reason of the said Goodes, Chattels, Wares, Merchandizes, and Premises to be exported out of our saide Domynions, or any of them, into any Parte of the saide Landes or Premises hereby mencōed, to be given, graunted, and confirmed, or for, or by Reason of any of the saide Goodes, Chattells, Wares, or Merchandizes to be imported from the said Landes and Premises hereby mencōed, to be given, graunted, and confirmed into any of our saide Dominions, or any Parte thereof as aforesaide, excepting onlie the saide five Poundes per Centum hereby reserved and payeable after the Expiracōn of the saide Terme of seaven

Yeares as aforesaid, and not before: And theis our Letters-patents, or the Inrollment, Duplicate, or Exemplificacon of the same shalbe for ever hereafter, from time to tyme, as well to the Treasorer, Chauncellor and Barons of the Exchequer of Vs, our Heires and Successors, as to all and singuler the Customers, Farmors, and Collectors of the Customes, Subsidies, and Imposts of Vs, our Heires and Successors, and all Searchers, and other the Officers and Ministers whatsoever of Vs, our Heires and Successors, for the Time being, a sufficient Warrant and Discharge in this Behalf. And, further our Will and Pleasure is, and Wee doe hereby for Vs, our Heires and Successors, ordeyne and declare, and graunte to the saide Governor and Company, and their Successors, That all and every the Subiects of Vs, our Heires or Successors, which shall goe to and inhabite within the saide Landes and Premisses hereby mencoed to be graunted, and every of their Children which shall happen to be borne there, or on the Seas in goeing thither, or retorning from thence, shall have and enjoy all liberties and Immunities of free and naturall Subiects within any of the Domynions of Vs, our Heires or Successors, to all Intents, Construccons, and Purposes whatsoever, as yf they and everie of them were borne within the Realme of England. And that the Governor and Deputie Governor of the said Company for the Tyme being, or either of them, and any two or more of such of the saide Assistants as shalbe therevnto appointed by the saide Governor and Company at any of their Courts or Assemblies to be held as aforesaide, shall and maie at all Tymes, and from tyme to tyme hereafter, have full Power and Authoritie to minister and give the Oathe and Oathes of Supremacie and Allegiance, or either of them, to all and everie Person and Persons, which shall at any Tyme or Tymes hereafter goe or passe to the Landes and Premisses hereby mencoed to be graunted to inhabite in the same. And, Wee doe of our further Grace, certen Knowledg and meere Mocon, give and graunte to the saide Governor and Company, and their Successors, That it shall and maie be lawfull, to and for the Governor or Deputie Governor, and such of the Assistants and Freemen of the said Company for the Tyme being as shalbe assembled in any of their generall Courts aforesaide, or in any other Courtes to be specially sumoned and assembled for that Purpose, or the greater Parte of them (whereof the Governor or Deputie Governor, and six of the Assistants to be alwaies seaven) from tyme to tyme, to make, ordeine, and establishe all Manner of wholesome and reasonable Orders, Lawes, Statutes, and Ordinnces, Direccons, and Instruccons, not contrarie to the Lawes of this our Realme of England, aswell for setling of the Formes and Ceremonies of Governm^t and Magistracy, fitt and necessary for the said Plantacon, and the Inhabitants there, and for nameing and stiling of all sorts of Officers, both superior and inferior, which they shall finde needefull for that Governement and Plantacon, and the distinguishing and setting forth of the severall duties, Powers, and Lymytts of every such Office and Place, and the Formes of such Oathes warrantable by the Lawes and Statutes of this our Realme of England, as shalbe respectivelie ministred vnto them for the Execucon of the said severall Offices and Places; as also, for the disposing and ordering of the Eleccons of such of the said Officers as shalbe annuall, and of such others as shalbe to succeede in Case of Death or Removeall, and ministring the said Oathes to the newe elected Officers, and for Imposicons of lawfull Fynes, Mulcts, Imprisonment, or other lawfull Correccon, according to the Course of other Corporacons in this our Realme of England, and for the directing, ruling, and disposeing of all other Matters and Thinges, whereby our said People, Inhabitants there, may be soe religiously, peaceablie, and civilly governed, as their good Life and orderlie Conversacon, maie wynn and incite the Natives of Country, to the Knowledg and Obedience of the onlie true God and Sauior of Mankinde, and the Christian Fayth, which in our Royall Intencon, and the Adventurers free Profession, is the principall Ende of this Plantacion. Willing, comaunding, and requiring, and by theis Presents for Vs, our Heires, and Successors, ordeyning and appointing, that all such Orders, Lawes, Statuts and Ordinnces, Instruccons and Direccons, as shalbe soe made by the Governor, or Deputie Governor of the said Company, and such of the Assistants and Freemen as aforesaide, and published in Writing, vnder their comon Seale, shalbe carefullie and dulie observed, kept, performed, and putt in Execucon, according to the

true Intent and Meaning of the same; and theis our Letters-patents, or the Duplicate or exemplificacōn thereof, shalbe to all and everie such Officers, superior and inferior, from Tyme to Tyme, for the putting of the same Orders, Lawes, Statutes, and Ordinnces, Instruccōns, and Direccōns, in due Execucōn against Vs, our Heires and Successors, a sufficient Warrant and Discharge. AND WEE DOE further, for Vs, our Heires and Successors, give and graunt to the said Governor and Company, and their Successors by theis Presents, that all and everie such Chiefe Comaunders, Captaines, Governors, and other Officers and Ministers, as by the said Orders, Lawes, Statuts, Ordiñnces, Instruccōns, or Direccōns of the said Governor and Company for the Tyme being, shalbe from Tyme to Tyme hereafter ymploied either in the Government of the saide Inhabitants and Plantacōn, or in the Waye by Sea thither, or from thence, according to the Natures and Lymitts of their Offices and Places respectively, shall from Tyme to Tyme hereafter for ever, within the Precincts and Partes of Newe Eñgland hereby mencōed to be graunted and confirmed, or in the Waie by Sea thither, or from thence, have full and Absolute Power and Authoritie to correct, punishe, pardon, governe, and rule all such the Subiects of Vs, our Heires and Successors, as shall from Tyme to Tyme adventure themselves in any Voyadge thither or from thence, or that shall at any Tyme hereafter, inhabite within the Precincts and Partes of Newe England aforasaid, according to the Orders, Lawes, Ordiñnces, Instruccōns, and Direccōns aforesaid, not being repugnant to the Lawes and Statutes of our Realme of England as aforesaid. AND WEE DOE further, for Vs, our Heires and Successors, give and graunte to the said Governor and Company, and their Successors, by theis Presents, that it shall and maie be lawfull, to and for the Chiefe Comaunders, Governors, and Officers of the said Company for the Time being, who shalbe resident in the said Parte of Newe England in America, by theis Presents graunted, and others there inhabiting by their Appointment and Direccōn, from Tyme to Tyme, and at all Tymes hereafter for their speciall Defence and Safety, to incounter, expulse, repell, and resist by Force of Armes, aswell by Sea as by Lande, and by all fitting Waies and Meanes whatsoever, all such Person and Persons, as shall at any Tyme hereafter, attempt or enterprise the Destruccōn, Invasion, Detriment, or Annoyaunce to the said Plantation or Inhabitants, and to take and surprise by all Waies and Meanes whatsoever, all and every such Person and Persons, with their Shippes, Armour, Municōn, and other Goodes, as shall in hostile manner invade or attempt the defeating of the said Plantacon, or the Hurt of the said Company and Inhabitants: NEVERTHELES, our Will and Pleasure is, and Wee doe hereby declare to all Christian Kinges, Princes and States, that yf any Person or Persons which shall hereafter be of the said Company or Plantacōn, or any other by Lycense or Appointment of the said Governor and Company for the Tyme being, shall at any Tyme or Tymes hereafter, robb or spoyle, by Sea or by Land, or doe any Hurt, Violence, or vnlawful Hostilitie to any of the Subjects of Vs, our Heires or Successors, or any of the Subiects of any Prince or State, being then in League and Amytie with Vs, our Heires and Successors, and that upon such iniury don and vpon iust Complaint of such Prince or State or their Subjects, WEE, our Heires and Successors shall make open Proclamacōn within any of the Partes within our Realme of England, comodious for that purpose, that the Person or Persons haveing comitted any such Roberie or Spoyle, shall within the Terme lymytted by such a Proclamacon, make full Restitucōn or Satisfaccōn of all such Iniureis don, soe as the said Princes or others soe complayning, maie hould themselves fullie satisfied and contented; and that yf the said Person or Persons, haveing comitted such Robbery or Spoile, shall not make, or cause to be made Satisfaccōn accordinglie, within such Tyme soe to be lymytted, that then it shalbe lawfull for Vs, our Heires and Successors, to putt the said Person or Persons out of our Allegiance and Proteccōn, and that it shalbe lawfull and free for all Princes to prosecute with Hostilitie, the said Offendors, and every of them, their and every of their Procurers, Ayders, Abettors, and Comforters in that Behalf: PROVIDED also, and our expresse Will and Pleasure is, And Wee doe by theis Presents for Vs, our Heires and Successors ordeyne and appoint That theis Presents shall not in any manner envre, or be taken to abridge, barr, or hinder any of our loving subiects whatsoever, to vse and exercise the Trade of Fishing vpon that Coast of New En-

gland in America, by theis Presents men̄cōed to be graunted. But that they, and every, or any of them, shall have full and free Power and Liberty to continue and vse their said Trade of Fishing vpon the said Coast, in any the Seas therevnto adioyning, or any Armes of the Seas or Saltwater Rivers where they have byn wont to fishe, and to build and sett vp vpon the Landes by theis Presents graunted, such Wharfes, Stages, and Workehouses as shalbe necessarie for the salting, drying, keeping, and packing vp of their Fish, to be taken or gotten vpon that Coast; and to cutt down, and take such Trees and other Materialls there groweing, or being, or shalbe needefull for that Purpose, and for all other necessarie Easements, Helpes, and Advantage concerning their said Trade of Fishing there, in such Manner and Forme as they have byn heretofore at any tyme accustomed to doe, without making any wilfull Waste or Spoyle, any Thing in theis Presents conteyned to the contrarie notwithstanding. And Wee doe further, for Vs, our Heires and Successors, ordeyne and graunte to the said Governor and Company, and their Successors by theis Presents that theis our Letters-patents shalbe firme, good, effectuall, and availeable in all Thinges, and to all Intents and Construccōns of Lawe, according to our true Meaning herein before declared, and shalbe construed, reputed, and adiudged in all Cases most favourablie on the Behalf, and for the Benefitt and Behoofe of the saide Governor and Company and their Successors: Althouh expresse mencōn of the true yearely Value or certenty of the Prem̄isses or any of them, or of any other Guiftes or Grauntes, by Vs, or any of our Progenitors or Predecessors to the foresaid Governor or Company before this tyme made, in theis Presents is not made; or any Statute, Acte, Ordinnce, Provision, Proclamacōn, or Restrainte to the contrarie thereof, heretofore had, made, published, ordeyned, or provided, or any other Matter, Cause, or Thinge whatsoever to the contrarie thereof in any wise notwithstanding.

In Witnes whereof, Wee have caused theis our Letters to be made Patents.

Witnes ourself, at Westminster, the fourth day of March, in the fourth Yeare of our Raigne.

Per Breve de Privato Sigillo,

WOLSELEY.

THE CHARTER OF MASSACHUSETTS BAY—1691.*

WILLIAM & MARY by the grace of God King and Queene of England Scotland France and Ireland Defenders of the Faith &c *To all* to whome these presents shall come Greeting *Whereas* his late Majesty King James the First Our Royall Predecessor by his Letters Patents vnder the Greate Seale of England bearing date at Westminster the Third Day of November in the Eighteenth yeare of his Reigne did Give and Grant vnto the Councill established at Plymouth in the County of Devon for the Planting Ruleing Ordering and Governing of New England in America and to their Successors and Assignes all that part of America lying and being in Breadth from Forty Degrees of Northerly Latitude from the Equinoctiall Line to the Forty Eighth Degree of the said Northerly Latitute Inclusively, and in length of and within all the Breadth aforesaid throughout all the Main Lands from Sea to Sea together alsoe with all the firme Lands Soiles Grounds Havens Ports Rivers Waters Fishings Mines and Mineralls aswell Royall Mines of Gold and Silver as other Mines and Mineralls Pretious Stones Quarries and all and singular other Com̄odities Jurisdiccōns Royalties Priviledges Franchises and Preheminences both within the said Tract of Land vpon the Main and alsoe within the Islands and Seas adjoyning *Provided* alwayes that the said Lands Islands or any the premisses by the said Letters Patents intended or meant to be Granted were not then actually

* The charter of 1629 had been cancelled by a judgment of the high court of chancery of England June 18, 1684.



possessed or Inhabited by any other Christian Prince or State or within the bounds Limitts or Territories of the Southern Collony then before granted by the said late King James the First [to be planted*] by divers of his Subjects in the South parts *To Have* and to hold possesse and enjoy all and singular the aforesaid Continent Lands Territories Islands Hereditaments and Precincts Seas Waters Fishings with all and all manner of their Cōmodities Royaltyes Liberties Preheminences and Profitts that should from thenceforth arise from thence with all and singular their appurtenances and every part and parcell thereof vnto the said Councill and their Successors and Assignes for ever to the sole and proper vse and benefitt of the said Councill and their Successors and Assignes for ever *To* be holden of his said late Majestie King James the First his Heires and Successors as of his Mannor of East Greenwich in the County of Kent in free and Cōmon Soccage and not in Capite or by Knights Service *Yielding* and paying therefore to the said late King his Heires and Successors the Fifth part of the Oar of Gold and Silver which should from time to time and at all times then after happen to be found gotten had and obteyned in att or within any of the said Lands Limitts Territories or Precincts or in or within any part or parcell thereof for or in respect of all and all manner of duties demands and services whatsoever to be done made or paid to the said late King James the first his Heires and Successors (as in and by the said Letters Patents amongst sundry other Clauses Powers Priviledges and Grants therein conteyned more at large appeareth *And Whereas* the said Councill established at Plymouth in the County of Devon for the Planting Ruleing Ordering and Governing of New England in America Did by their Deed Indented vnder their Cōmon Seale bearing Date the Nineteenth Day of March in the Third yeare of the Reigne of Our Royall Grandfather King Charles the First of ever Blessed Memory Give Grant Bargaine Sell Enffeoffe Alien and Confirme to Sir Henry Roswell Sir John Young Knights Thomas Southcott John Humphreys John Endicot and Simond Whetcomb their Heires and Assines and their Associats for ever All that part of New England in America aforesd which lyes and extends betweene a great River there cōmonly called Monomack als Merrimack and a certaine other River there called Charles River being in a Bottom of a certaine Bay there comonly called Massachusetts als Mattachuseetts als Massatusetts Bay And alsoe all and singular those Lands and Hereditaments whatsoever lying within the space of Three English Miles on the South part of the said Charles River or of any and every part thereof And alsoe all and singuler the Lands and Hereditaments whatsoever lying and being within the space of three English Miles to the Southward of the Southermost part of the said Bay called the Massachusetts als Mattachusetts als Massatusetts Bay And alsoe all those Lands and Hereditaments whatsoever which lye and be within the space of three English Miles to the Northward of the said River called Monomack als Merrimack or to the Northward of any and every part thereof And all Lands and Hereditaments whatsoever lying within the Limitts aforesaid North and South in Latitude and in Breadth and in length and longitude of and within all the Breadth aforesaid throughout the Main Lands there from the Atlantick and Western Sea and Ocean on the East parte to the South Sea on the West part and all Lands and Grounds Place and Places Soile Woods and Wood Grounds Havens Ports Rivers Waters Fishings and Hereditaments whatsoever lying within the said Bounds and Limitts and every parte and parcell thereof and alsoe all Islands lying in America aforesaid in the said Seas or either of them on the Western or Eastern Coasts or Parts of the said Tracts of Land by the said Indenture mencōned to be Given and Granted Bargained Sold Enffeoffed Aliened and Confirmed or any of them And alsoe all Mines and Mineralls aswell Royall Mines of Gold and Silver as other Mines and Mineralls whatsoever in the said Lands and Premisses or any parte thereof and all Jurisdiccōns Rights Royalties Liberties Freedoms Im̄unities Priviledges Franchises Preheminences and Cōmodities whatsoever which they the said Councill established at Plymouth in the County of Devon for the planting Ruleing Ordering and Governing of New England in America then had or might vse exercise or enjoy in or within the said Lands and Premisses by the same Indenture mencōned to be given granted bargained sold enffeoffed and confirmed in or within any part or parcell thereof *To Have* and

* These words occur in the printed copies, but are not in the original. See also colony charter.

to hold the said parte of New England in America which lyes and extends and is abutted as aforesaid and every parte and parcell thereof And all the said Islands Rivers Ports Havens Waters Fishings Mines Mineralls Jurisdiccons Franchises Royalties Liberties Priviledges Comodities Hereditaments and premisses whatsoever with the appurtenances vnto the said Sir Henry Roswell Sir John Young Thomas Southcott John Humphreys John Endicott and Simond Whetcomb their Heires and Assignes and their Associates for ever to the only proper and absolute vse and behoofe of the said Sir Henry Roswell Sir [John*] Joung Thomas Southcott John Humphryes John Endicott and Simond Whetcomb their Heires and Assignes and their Associates for evermore *To* be holden of Our said Royall Grandfather King Charles the first his Heires and Successors as of his Mannor of East Greenwich in the County of Kent in free and Comon Soccage and not in Capite nor by Knights Service *Yielding and* paying therefore vnto Our said Royall Grandfather his Heires and Successors the fifth part of the Oar of Gold and Silver which should from time to time and at all times hereafter happen to be found gotten had & obteyned in any of the said Lands within the said Limitts or in or within any part thereof for and in satisfaccon of all manner of duties demands and services whatsover to be done made or paid to Our said Royall Grandfather his Heires or Successors (as in and by the said recited Indenture may more at large appeare *And Whereas* Our said Royall Grandfather in and by his Letters Patents vnder the Greate Seale of England bearing date at Westminster the Fourth Day of March in the Fourth yeare of his Reigne for the consideracon therein menconed did grant and confirme vnto the said Sir Henry Roswell Sir John Young Thomas Southcott John Humphreys John Endicott and Simond Whetcomb and to their Associates after named (vizt) Sir Ralph Saltenstall Kn! Isaac Johnson Samuell Aldersey John Ven Mathew Craddock George Harwood Increase Nowell Richard Berry Richard Bellingham Nathaniell Wright Samuell Vassall Theophilus Eaton Thomas Golfe Thomas Adams John Browne Samuell Browne Thomas Hutchins William Vassall William Pincheon and George Foxcroft their Heires and Assignes All the said part of New England in America lying and extending betweene the bounds and limitts in the said Indenture expressed and all Lands and Grounds Place and Places Soiles Woods and Wood Grounds Havens Ports Rivers Waters Mines Mineralls Jurisdiccons Rights Royalties Liberties Freedomes Imunities Priviledges Franchises Preheminences and Hereditaments whatsoever bargained sold enffeoffed and Confirmed or menconed or intended to be given granted bargained sold enffeoffed aliend and confirmed to them the said Sir Henry Roswell Sir John Young Thomas Southcott John Humphreys John Endicott and Simond Whetcomb their Heires and Assignes and to their Associates for ever by the said recited Indentu[r]e *To Have* and to hold the said part of New England in America and other the Premisses thereby menconed to be granted and confirmed and every parte and parcell thereof with the appurtenances to the said Sir Henry Roswell Sir John Young Sir Richard Saltenstall Thomas Southcott John Humphreys John Endicott Simond Whetcomb Isaac Johnson Samuell Aldersey John Ven Mathew Craddock George Harwood Increase Nowell Richard Perry Richard Bellingham Nathaniel Wright Samuell Vassall Theophilus Eaton Thomas Golfe Thomas Adams John Browne Samuell Browne Thomas Hutchins William Vassall William Pincheon and George Foxcroft their Heires and Assignes for ever to their own proper and absolute vse and behoofe for evermore *To* be holden of Our said Royall Grandfather his Heires and Successors as of his Mannor of East Greenwich aforesaid in free and comon Soccage and not in Capite nor by Knights Service and alsoe yeilding and paying therefore to Our said Royall Grandfather his Heires and Successors the fifth part only of all the Oar of Gold and Silver which from time to time and at all times after should be there gotten had or obteyned for all Services Exaccons and Demands whatsoever according to the tenour and Reservacon in the said recited Indenture expressed *And further* Our said Royall Grandfather by the said Letters Patents did Give and Grant vnto the said Sir Henry Roswell Sir John Young Sir Richard Saltenstall Thomas Southcott John Humphreys John Endicott Simond Whetcomb Isaac Johnson Samuell Aldersey John Ven Mathew

*Omitted in the original.

Craddock George Harwood Encrease Nowell Richard Perrey Richard Bellingham Nathaniel Wright Samuell Vassall Theophilus Eaton Thomas Golfe Thomas Adams John Browne Samuell Browne Thomas Hut[c]hins William Vassall William Pincheon and George Foxcroft their Heires and Assignes All that part of New England in America which lyes and extends betweene a Greate River called Monomack als Merrimack River and a certaine other River there called Charles River being in the Bottom of a certaine Bay there comonly called Massachusetts als Mattachusetts als Massatusetts Bay and alsoe all and singular those Lands and Hereditaments whatsoever lying within the space of Three English Miles on the South part of the said River called Charles River or of any or every part thereof and alsoe all and singuler the Lands and Hereditaments whatsoever lying and being within the space of Three English Miles to the Southward of the Southermost part of the said Bay called Massachusetts als Mattachusetts als Massatusetts Bay And alsoe all those Lands and Hereditaments whatsoever which lye and bee within the space of Three English Miles to the Northward of the said River called Monomack als Merrimack or to the Northward of any and every parte thereof And all Lands and Hereditaments whatsoever lyeing within the limitts aforesaid North and South in Latitude and in Breadth and in length and Longitude of and within all the Breadth aforesaid throughout the Main Lands there from the Atlantick or Western Sea and Ocean on the East parte to the South Sea on the West parte And all Lands Grounds Place and Places Soils Wood and Wood Lands Havens Ports Rivers Waters and Hereditaments whatsoever lying within the said bounds and limitts and every part and parcell thereof And alsoe all Islands in America aforesaid in the said Seas or either of them on the Western or Eastern Coasts or partes of the said Tracts of Lands thereby mencõned to be given and granted or any of them And all Mines and Mineralls aswell Royall Mines of Gold and Silver as other Mines and Mineralls whatsoever in the said Lands and premisses or any parte thereof and free Libertie of Fishing in or within any of the Rivers and Waters within the bounds and limitts aforesaid and the Seas thereunto adjoyning and of all Fishes Royall Fishes Whales Balene Sturgeon and other Fishes of what kind or nature soever that should at any time thereafter be taken in or within the said Seas or Waters or any of them by the said Sir Henry Roswell Sir John Young Sir Richard Saltenstall Thomas Southcott John Humphryes John Endicott Simond Whetcomb Isaac Johnson Samuell Aldersey John Ven Mathew Craddock George Harwood Increase Nowell Richard Perrey Richard Bellingham Nathaniel Wright Samuell Vassall Theophilus Eaton Thomas Golfe Thomas Adams John Browne Samuell Browne Thomas Hutchins William Vassall William Pincheon and George Foxcroft their Heires or Assignes or by any other person or persons whatsoever there Inhabiting by them or any of them to be appointed to Fish therein *Provided* alwayes that if the said Lands Islands or any the premisses before mencõned and by the said Letters Patents last mencõned intended and meant to be granted were at the time of granting of the said former Letters Patents dated the third day of November in the Eighteenth yeare of the Reigne of his late Majesty King James the First actually possessed or inhabited by any other Christian Prince or State or were within the bounds Limitts or Territories of the said Southern Colony then before granted by the said King to be planted by divers of his Loveing Subjects in the South parts of America That then the said Grant of Our said Royall Grandfather should not extend to any such parts or parcells thereof soe formerly inhabited or lying within the bounds of the Southern Plantacõn as aforesaid but as to those parts or parcells soe possessed or inhabited by any such Christian Prince or State or being within the boundaries aforoesaid should be vtterly void *To Have* and to hold possesse and enjoy the said parts of New England in America which lye extend and are abutted as aforesaid and every part and parcell thereof and all the Islands Rivers Ports Havens Waters Fishings Fishes Mines Mineralls Jurisdicõns Franchises Royalties Riverties* Priviledges Comodities and premisses whatsoever with the Appurtenances vnto the said Sir Henry Roswell Sir John Young Sir Richard Saltenstall Thomas Southcott John Humphreys John Endicott Simond Whetcomb Isaac Johnson Samuell Aldersey John Ven Mathew Craddock George Harwood Increase Nowell Richard Perry Rich-

* Liberties.

ard Bellingham Nathaniell Wright Samuell Vassall Theophilus Eaton Thomas Golfe Thomas Adams John Browne Samuell Browne Thomas Hutchins William Vassall William Pincheon and George Foxcroft their Heires and Assignes for ever To the only proper and absolute vse and behoofe of the said Sir Henry Roswell Sir John Young Sir Richard Saltenstall Thomas Southcott John Humphryes John Endicott Simond Whetcomb Isaac Johnson Samuell Aldersey John Ven Mathew Craddock George Harwood Increase Nowell Richard Perry Richard Bellingham Nathaniell Wright Samuell Vassall Theophilus Eaton Thomas Golfe Thomas Adams John Browne Samuell Browne Thomas Hutchins William Vassall William Pincheon and George Foxcroft their Heires and Assignes for evermore *To* be holden of Our said Royall Grandfather his Heires and Successors as of his Mannor of East Greenwich in the County of Kent within the Realme of England in free and Com̃on Soccage and not in Capite nor by Knights Service And alsoe yeilding and paying therefore to Our said Royall Grandfather his Heires and Successors the Fifth part only of all the Oar of Gold and Silver which from time to time and at all times thereafter should be gotten had and obteyned for all services Exac̃ons and demands whatsoever *Provided* alwayes and his Majesties expresse Will and meaning was that only one Fifth parte of all the Gold and Silver Oar above menc̃oned in the whole and no more should be answered reserved and payable vnto Our said Royall Grandfather his Heires and Successors by colour or vertue of the said last menc̃oned Letters Patents the double reservac̃ons or recitalls aforesaid or any thing therein conteyned notwithstanding And to the end that the affaires and buisnesse which from time to time should happen and arise concerning the said Lands and the Plantac̃ons of the same might be the better mannaged and ordered and for the good Government thereof Our said Royall Grandfather King Charles the First did by his said Letters Patents Create and make the said Sir Henry Roswell Sir John Young Sir Richard Saltenstall Thomas Southcott John Humphreys John Endicott Symond Whetcomb Isaac Johnson Samuell Aldersey John Ven Mathew Caddock George Harwood Increase Nowell Richard Perry Richard Bellingham Nathaniell Wright Samuell Vassall and Theophilus Eaton Thomas Golfe Thomas Adams John Browne Samuell Browne Thomas Hutchins William Vassal William Pincheon and George Foxcroft and all such others as should thereafter be admitted and made free of the Company and Society therein after menc̃oned one Body Politique and Corporate in fact and name by the Name of the Governour and Company of the Massachusetts Bay in New England and did grant vnto them and their Successors divers powers Liberties and Priviledges as in and by the said Letters Patents may more fully and at large appeare *And whereas* the said Governour and Company of the Massachusetts Bay in New England by vertue of the said Letters Patents did settle a Collony of the English in the said parts of America and divers good Subjects of this Kingdome incouraged and invited by the said Letters Patents did Transport themselves and their Effects into the same whereby the said Plantac̃on did become very populous and divers Counties Townes and Places were created erected made setforth or designed within the said parts of America by the said Governour and Company for the time being *And Whereas* in the Terme of the holy Trinity in the Thirty Sixth yeare of the Reigne of Our dearest Vncle King Charles the Second a Judgment was given in Our Court of Chancery then sitting at Westminster vpon a Writt of Scire Facias brought and prosecuted in the said Court against the Governour and Company of the Massachusetts Bay in New England that the said Letters Patents of Our said Royall Grandfather King Charles the First bearing date at Westminster the Fourth day of March in the Fourth yeare of his Reigne made and granted to the said Governour and Company of the Massachusetts Bay in New England and the Enrollment of the same should be cancelled vacated and annihilated and should be brought into the said Court to be cancelled (as in and by the said Judgment remaining vpon Record in the said Court doth more at large appeare) *And whereas* severall persons employed as Agents in behalfe of Our said Collony of the Massachusetts Bay in New England have made their humble application vnto Vs that Wee would be graciously pleased by Our Royall Charter to Incorporate Our Subjects in Our said Collony and to grant and confirme vnto them such powers priviledges and Franchises as [in] Our Royall Wisdome should be thought most con-

duceing to Our Interest and Service and to the Welfare and happy State of Our Subjects in New England and Wee being graciously pleased to gratifie Our said Subjects And alsoe to the end Our good Subjects within Our Collony of New Plymouth in New England âforesaid may be brought vnder such a forme of Government as may put them in a better Condicõn of defence and considering aswell the granting vnto them as vnto Our Subjects in the said Collony of the Massachusetts Bay Our Royall Charter with reasonable Powers and Priviledges will much tend not only to the safety but to the Flourishing estate of Our Subjects in the said parts of New England and alsoe to the advanceing of the ends for which the said Plantancõns were at first encouraged of Our especiall Grace certaine knowledge and meer Mocõn have willed and ordeyned and Wee doe by these presents for Vs Our Heires and Successors Will and Ordeyne that the Territories and Collonyes comonly called or known by the Names of the Collony of the Massachusetts Bay and Collony of New Plymouth the Province of Main the Territorie called Accadia or Nova Scotia and all that Tract of Land lying betweene the said Territori*tori*es of Nova Scotia and the said Province of Main be Erected Vnited and Incorporated And Wee doe by these presents Vnite Erect and Incorporate the same into one reall Province by the Name of Our Province of the Massachusetts Bay in New England And of Our especial Grace certaine knowledge and meer mocõn Wee have given and granted and by these presents for Vs Our Heires and Successors doe give and grant vnto Our good Subjects the Inhabitants of Our said Province or Territory of the Massachusetts Bay and their Successors all that parte of New England in America lying and extending from the greate River comonly called Monomack als Merrimack on the Northpart and from three Miles Northward of the said River to the Atlantick or Western Sea or Ocean on the South part And all the Lands and Hereditaments whatsoever lying within the limitts aforesaid and extending as farr as the Outermost Points or Promontories of Land called Cape Cod and Cape Mallabar North and South and in Latitude Breadth and in Length and Longitude of and within all the Breadth and Compass aforesaid throughout the Main Land there from the said Atlantick or Western Sea and Ocean on the East parte towards the South Sea or Westward as far as Our Collonyes of Rhode Island Connecticutt and the Marragansett* Countrey all† alsoe all that part or porcõn of Main Land beginning at the Entrance of Pescata way Harbour and soe to pass vpp the same into the River of Newickewannock and through the same into the furthest head thereof and from thence Northwestward till One Hundred and Twenty Miles be finished and from Piscata way Harbour mouth aforesaid North-Eastward along the Sea Coast to Sagadehock and from the Period of One Hundred and Twenty Miles aforesaid to crosse over Land to the One Hundred and Twenty Miles before reckoned vp into the Land from Piscataway Harbour through Newickawannock River and alsoe the North halfe of the Isles and Shoales together with the Isles of Cappawock and Nantukett near Cape Cod aforesaid and alsoe [all†] Lands and Hereditaments lying and being in the Countrey and Territory comonly called Accadia or Nova Scotia And all those Lands and Hereditaments lying and extending betweene the said Countrey or Territory of Nova Scotia and the said River of Sagadahock or any part thereof And all Lands Grounds Places Soiles Woods and Wood grounds Havens Ports Rivers Waters and other Hereditaments and premisses whatsoever lying within the said bounds and limitts aforesaid and every part and parcell thereof and alsoe all Islands and Isletts lying within tenn Leagues directly opposite to the Main Land within the said bounds and all Mines and Mineralls aswell Royall Mines of Gold and Silver as other Mines and Mineralls whatsoever in the said Lands and premisses or any parte thereof *To Have* and to hold the said Territories Tracts Countreys Lands Hereditaments and all and singular other the premisses with their and every of their Appurtences to Our said Subjects the Inhabitants of Our said Province of the Massachusetts Bay in New England and their Successors to their only proper vse and behoofe for evermore *To* be holden of Vs Our Heires and Successors as of Our Mannor of East Greenwich in the County of Kent by Fealty only in free and Comon Soccage *yeilding* and paying therefore yearly to Vs Our Heires

* Narragansett.

† In printed copies this is "the," but the omission in the original seems better supplied as above.

and Successors the Fifth part of all Gold and Silver Oar and pretious Stones which shall from time to time and at all times hereafter happen to be found gotten had and obteyned in any of the said Lands and premisses or within any part thereof *Provided* nevertheless and Wee doe for *Vs* Our Heires and Successors Grant and ordeyne that all and every such Lands Tenements and Hereditaments and all other estates which any person or persons or Bodyes-Politique or Corporate Townes Villages Colledges or Schooles doe hold and enjoy or ought to hold and enjoy within the bounds aforesaid by or vnder any Grant or estate duely made or granted by any Generall Court formerly held or by vertue of the Letters Patents herein before recited or by any other lawfull Right or Title whatsoever shall be by such person and persons Bodyes Politique and Corporate Townes Villages Colldeges or Schooles their respective Heires Successors and Assignes for ever hereafter held and enjoyed according to the purport and Intent of such respective Grant vnder and Subject nevertheless to the Rents and Services thereby reserved or made payable any matter or thing whatsoever to the contrary notwithstanding *And Provided* alsoe that nothing herein conteyned shall extend or be vnderstood or taken to impeach or prejudice any right title Interest or demand which Samuell Allen of London Merchant claiming from and vnder John Mason Esqr deceased or any other person or persons hath or have or claimeth to have hold or enjoy of in to or out of any part or parts of the premisses scituate within the limitts above mencōned But that the said Samuel Allen and all and every such person and persons may and shall have hold and enjoy the same in such manner (and no other then) as if these presents had not been had or made It being Our further Will and Pleasure that no Grants or Conveyances of any Lands Tenements or Hereditaments to any Townes Colledges Schooles of Learning or to any private person or persons shall be judged or taken to be avoided or prejudiced for or by reason of any want or defect of Form but that the same stand and remaine in force and be mainteyned adjudged and have effect in the same manner as the same should or ought before the time of the said recited Judgment according to the Laws and Rules then and there vsually practised and allowed And Wee doe further for Vs Our Heires and Successors Will Establish and ordeyne that from henceforth for ever there shall be one Governour One Leivtent or Deputy Governour and One Secretary of Our said Province or Territory to be from time to time appointed and Commissionated by Vs Our Heires and Successors and Eight and Twenty Assistants or Councillors to be advising and assisting to the Governour of Our said Province or Territory for the time being as by these presents is hereafter directed and appointed which said Councillors or Assistants are to be Constituted Elected and Chosen in such forme and manner as hereafter in these presents is expressed And for the better Execucōn of Our Royall Pleasure and Grant in this behalfe Wee doe by these presents for Vs Our Heires and Successors Nominate Ordeyne make and Constitute Our Trusty and Welbeloved Simon Broadstreet John Richards Nathaniel Saltenstall Wait Winthrop John Phillipps James Russell Samuell Sewall Samuel Appleton Barthilomew Gedney John Hawthorn Elisha Hutchinson Robert Pike Jonathan Curwin John Jolliffe Adam Winthrop Richard Middlecot John Foster Peter Serjeant Joseph Lynd Samuell Hayman Stephen Mason Thomas Hinckley William Bradford John Walley Barnabas Lothrop Job Alcott Samuell Daniell and Silvanus Davis Esquiers the first and present Councillors or Assistants of Our said Province to continue in their said respective Offices or Trusts of Councillors or Assistants vntill the last Wednesday in May which shall be in the yeare of Our Lord One Thousand Six Hundred Ninety and Three and vntill other Councillors or Assistants shall be chosen and appointed in their stead in such manner as in those presents is expressed *And Wee* doe further by these presents Constitute and appoint Our Trusty and welbeloved Isaac Addington Esquier to be Our first and present Secretary of Our said Province during Our Pleasure *And Our* Will and Pleasure is that the Governour of Our said Province from the time being shall have Authority from time to time at his discretion to assemble and call together the Councillors or Assistants of Our said Province for the time being and that the said Governour with the said Assistants or Councillors or Seaven of them at the least shall and may from time to time hold and keep a Councill for the ordering and directing the Affaires of Our said Province *And further* Wee Will and by

these presents for Vs Our Heires and Successors doe ordeyne and Grant that there shall and may be convened held and kept by the Governour for the time being vpon every last Wednesday in the Moneth of May every yeare for ever and at all such other times as the Governour of Our said Province shall think fitt and appoint a great and Generall Court of Assembly Which said Great and Generall Court of Assembly shall consist of the Governour and Councill or Assistants for the time being and of such Freeholders of Our said Province or Territory as shall be from time to time elected or deputed by the Major parte of the Freeholders and other Inhabitants of the respective Townes or Places who shall be present at such Eleccons Each of the said Townes and Places being hereby impowered to Elect and Depute Two Persons and noe more to serve for and represent them respectively in the said Great and Generall Court or Assembly To which Great and Generall Court or Assembly to be held as aforesaid Wee doe hereby for Vs Our Heires and Successors give and grant full power and authority from time to time to direct appoint and declare what Number each County Towne and Place shall Elect and Depute to serve for and represent them respectively in the said Great and Generall Court or Assembly *Provided* alwayes that noe Freeholder or other Person shall have a Vote in the Eleccon of Members to serve in any Greate and Generall Court or Assembly to be held as aforesaid who at the time of such Eleccon shall not have an estate of Freehold in Land within Our said Province or Territory to the value of Forty Shillings per Annũ at the least or other estate to the value of Forty pounds Sterl' And that every Person who shall be soe elected shall before he sitt or Act in the said Great and Generall Court or Assembly take the Oaths menconed in an Act of Parliament made in the first yeare of Our Reigne Entituled an Act for abrogateing of the Oaths of Allegiance and Supremacy and appointing other Oaths and thereby appointed to be taken instead of the Oaths of Allegiance and Supremacy and shall make Repeat and Subscribe the Declaracon menconed in the said Act before the Governour and Leivtent or Deputy Governour or any two of the Assistants for the time being who shall be therevnto authorized and Appointed by Our said Governour and that the Governour for the time being shall have full power and Authority from time to time as he shall Judge necessary to adjourne Prorogue and dissolve all Great and Generall Courts or Assemblyes met and convened as aforesaid And Our Will and Pleasure is and Wee doe hereby for Vs Our Heires and Successors Grant Establish and Ordeyne that yearly once in every yeare for ever hereafter the aforesaid Number of Eight and Twenty Councillors or Assistants shall be by the Generall Court or Assembly newly chosen that is to say Eighteen at least of the Inhabitants of or Proprietors of Lands within the Territory formerly called the Collony of the Massachusetts Bay and four at the least of the Inhabitants of or Proprietors of Lands within the Territory formerly called New Plymouth and three at the least of the Inhabitants of or Proprietors of Land within the Territory formerly called the Province of Main and one at the least of the Inhabitants of or Proprietors of Land within the Territory lying between the River of Sagadahoc and Nova Scotia And that the said Councillors or Assistants or any of them shall or may at any time hereafter be removed or displaced from their respective Places or Trust of Councillors or Assistants by any Great or Generall Court or Assembly And that if any of the said Councillors or Assistants shall happen to dye or be removed as aforesaid before the Generall day of Eleccon That then and in every such Case the Great and Generall Court or Assembly at their first sitting may proceed to a New Eleccon of one or more Councillors or Assistants in the roome or place of such Councillors or Assistants soe dying or removed And Wee doe further Grant and Ordeyne that it shall and may be lawfull for the said Governour with the advice and consent of the Councill or Assistants from time to time to nominate and appoint Judges Commissioners of Oyer and Terminer Sheriffs Provosts Marshalls Justices of the Peace and other Officers to Our Councill and Courts of Justice belonging *Provided* alwayes that noe such Nominacon or Appointment of Officers be made without notice first given or sumons yssued out seaven dayes before such Nominacon or Appointment vnto such of the said Councillors or Assistants as shall be at that time resideing within Our said Province *And Our* Will and Pleasure is that the Governour and Leivtent or Deputy Governour and Council-

lors or Assistants for the time being and all other Officers to be appointed or Chosen as aforesaid shall before the Vndertaking the Execučon of their Offices and Places respectively take their severall and respective Oaths for the due and faithfull performance of their duties in their severall and respective Offices and Places and alsoe the Oaths appointed by the said Act of Parliament made in the first yeare of Our Reigne to be taken instead of the Oaths of Allegiance and Supremacy and shall make repeate and subscribe the Declaračon menčoned in the said Act before such Person or Persons as are by these presents herein after appointed (that is to say) The Governour of Our said Province or Territory for the time being shall take the said Oaths and make repeate and subscribe the said Decleračon before the Leivtent or Deputy Governour or in his absence before any two or more of the said Persons hereby Nominated and appointed the present Councillors or Assistants of Our said Province or Territory to whom Wee doe by these presents give full power and Authority to give and administer the same to Our said Governour accordingly and after Our said Governour shall be sworn and shall have subscribed the sd Declaračon that then Our Leivtent or Deputy Governour for the time being and the Councillors or Assistants before by these presents Nominated and appointed shall take the said Oaths and make repeat and subscribe the said Declaračon before Our said Governour and that every such person or persons as shall (at any time of the Annuall Elecčons or otherwise vpon death or removeall) be appointed to be the New Councillors or Assistants and all other Officers to bee hereafter chosen from time to time shall take the Oaths to their respective Offices and places belonging and alsoe the said Oaths appointed by the said Act of Parliament to be taken instead of the Oaths of Allegiance and Supremacy and shall make repeate and subscribe the declaračon menčoned in the said Act before the Governour or Leivtent or Deputy Governour or any two or more Councillors or Assistants or such other Person or Persons as shall be appointed thereunto by the Governour for the time being to whom Wee doe therefore by these presents give full power and authority from time to time to give and administer the same respectively according to Our true meaning herein before declared without any Comission or further Warrant to bee had and obteyned from vs Our Heires and Successors in that behalfe *And* Our Will and Pleasure is and Wee doe hereby require and Comand that all and every person and persons hereafter by Vs Our Heires and Successors nominated and appointed to the respective Offices of Governour or Leivt or Deputy Governour and Secretary of Our said Province or Territory (which said Governour or Leivt or Deputy Governour and Secretary of Our said Province or Territory for the time being Wee doe hereby reserve full power and Authority to Vs Our Heires and Successors to Nominate and appoint accordingly shall before he or they be admitted to the Execučon of their respective Offices take aswell the Oath for the due and faithfull performance of the said Offices respectively as alsoe the Oaths appointed by the said Act of Parliament made in the said First yeare of Our Reigne to be taken instead of the said Oaths of Allegiance and Supremacy and shall alsoe make repeate and subscribe the Declaračon appointed by the said Act in such manner and before such persons as aforesaid *And further* Our Will and Pleasure is and Wee doe hereby for Vs Our Heires and Successors Grant Establish and Ordaine That all and every of the Subjects of Vs Our Heires and Successors which shall goe to and Inhabit within Our said Province and Territory and every of their Children which shall happen to be born there or on the Seas in goeing thither or returning from thence shall have and enjoy all Libertyes and Immunities of Free and naturall Subjects within any of the Dominions of Vs Our Heires and Successors to all Intents Construččons and purposes whatsoever as if they and every of them were borne within this Our *Realme* of England and for the greater Ease and Encouragement of Our Loveing Subjects Inhabiting our said Province or Territory of the Massachusetts Bay and of such as shall come to Inhabit there Wee doe by these presents for vs Our heires and Successors Grant Establish and Ordaine that for ever hereafter there shall be a liberty of Conscience allowed in the Worshipp of God to all Christians (Except Papists) Inhabiting or which shall Inhabit or be Resident within our said Province or Territory *And* Wee doe hereby Grant and Ordaine that the Gouernor or leivetent or Deputy Gouernor of our said Province or Territory for the time being or either of them or any

two or more of the Councill or Assistants for the time being as shall be thereunto appointed by the said Gouernor shall and may at all times and from time to time hereafter have full Power and Authority to Administer and give the Oathes appointed by the said Act of Parliament made in the first yeare of Our Reigne to be taken instead of the Oathes of Allegiance and Supremacy to all and every person and persons which are now Inhabiting or resideing within our said Province or Territory or which shall at any time or times hereafter goe or passe thither And wee doe of our further Grace certaine knowledge and meer mocon Grant Establish and Ordaine for Vs our heires and Successors that the great and Generall Court or Assembly of our said Province or Territory for the time being Convened as aforesaid shall for ever have full Power and Authority to Erect and Constitute Judicatories and Courts of Record or other Courts to be held in the name of Vs Our heires and successors for the Hearing Trying and Determining of all manner of Crimes Offences Pleas Processes Plaints Accons Matters Causes and things whatsoever ariseing or happening within Our said Province or Territory or between persons Inhabiting or resideing there whether the same be Criminall or Civill and whether the said Crimes be Capitall or not Capitall and whether the said Pleas be Reall personall or mixt and for the awarding and makeing out of Execution thereupon To which Courts and Judicatories wee doe hereby for vs our heirs and Successors Give and Grant full power and Authority from time to time to Administer oathes for the better Discovery of Truth in any matter in Controversy or depending before them *And* wee doe for vs Our Heires and Successors Grant Establish and Ordaine that the Gouernor of our said Province or Territory for the time being with the Councill or Assistants may doe execute or performe all that is necessary for the Probate of Wills and Granting of Administracons for touching or concerning any Interest or Estate which any person or persons shall have within our said Province or Territory *And whereas* Wee judge it necessary that all our Subjects should have liberty to Appeale to vs our heires and Successors in Cases that may deserve the same Wee doe by these presents Ordaine that incase either party shall not rest satisfied with the Judgement or Sentence of any Judicatories or Courts within our said Province or Territory in any Personall Accon wherein the matter in difference doth exceed the value of three hundred Pounds Sterling that then he or they may appeale to vs Our heires and Successors in our or their Privy Councill Provided such Appeale be made within Fourteen dayes after y[e] Sentence or Judgement given and that before such Appeale be allowed Security be given by the party or parties appealing in the value of the matter in Difference to pay or Answer the Debt or Damages for the which Judgement or Sentence is given With such Costs and Damages as shall be Awarded by vs Our Heires or Successors incase the Judgement or Sentence be affirmed *And Provided* alsoe that no Execution shall be stayd or suspended by reason of such Appeale vnto vs our Heires and Successors in our or their Privy Councill soe as the party Sueing or takeing out Execution doe in the like manner give Security to the value of the matter in difference to make Restitucion in Case the said Judgement or Sentence be reversed or annul'd vpon the said Appeale *And* we doe further for vs our Heires and Successors Give and Grant to the said Governor and the great and Generall Court or Assembly of our said Province or Territory for the time being full power and Authority from time to time to make ordaine and establish all manner of wholsome and reasonable Orders Laws Statutes and Ordinances Directions and Instructions either with penalties or without (soe as the same be not repugnant or contrary to the Lawes of this our Realme of England) as they shall Judge to be for the good and welfare of our said Province or Territory And for the Gouernment and Ordering thereof and of the People Inhabiting or who shall Inhabit the same and for the necessary support and Defence of the Government thereof *And* wee doe for vs our Heires and Successors Giue and grant that the said Generall Court or Assembly shall have full power and Authority to name and settle annually all Civill Officers within the said Province such Officers Excepted the Election and Constitution of whome wee have by these presents reserved to vs Our Heires and Successors or to the Governor of our said Province for the time being and to Settforth the severall Duties Powers and Lymitts of every such Officer to be appointed by the said Generall Court

or Assembly and the formes of such Oathes not repugnant to the Lawes and Statutes of this our Realme of England as shall be respectiuely Administred vnto them for the Execution of their severall Offices and places And alsoe to impose Fines mulcts Imprisonments and other Punishments And to impose and leavy proportionable and reasonable Assessments Rates and Taxes vpon the Estates and Persons of all and every the Proprietors and Inhabitants of our said Province or Territory to be Issued and disposed of by Warrant vnder the hand of the Governor of our said Province for the time being with the advice and Consent of the Councill for Our service in the necessary defence and support of our Government of our said Province or Territory and the Protection and Preservation of the Inhabitants there according to such Acts as are or shall be in force within our said Province and to dispose of matters and things whereby our Subjects inhabitants of our said Province may be Religiously peaceably and Civilly Governed Protected and Defended soe as their good life and orderly Conversation may win the Indians Natives of the Country to the knowledge and obedience of the onely true God and Saviour of Mankinde and the Christian Faith which his Royall Majestie our Royall Grandfather king Charles the first in his said Letters Patents declared was his Royall Intentions And the Adventurers free Possession* to be the Princepall end of the said Plantation And for the better secureing and maintaining Liberty of Conscience hereby granted to all persons at any time being and resideing within our said Province or Territory as aforesaid *Willing* Comanding and Requireing and by these presents for vs Our heires and Successors Ordaining and appointing that all such Orders Lawes Statutes and Ordinances Instructions and Directions as shall be soe made and published vnder our Seale of our said Province or Territory shall be Carefully and duely observed kept and performed and put in Execution according to the true intent and meaning of these presents *Provided* alwaies and Wee doe by these presents for vs Our Heires and Successors Establish and Ordaine that in the frameing and passing of all such Orders Laws Statutes and Ordinances and in all Elections and Acts of Government whatsoever to be passed made or done by the said Generall Court or Assembly or in Councill the Governor of our said Province or Territory of the Massachusetts Bay in New England for the time being shall have the Negative voice and that without his consent or Approbation signified and declared in Writeing no such Orders Laws Statutes Ordinances Elections or other Acts of Government whatsoever soe to be made passed or done by the said Generall Assembly or in Councill shall be of any Force effect or validity anythimg herein contained to the contrary in anywise notwithstanding *And* wee doe for vs Our Heires and Successors Establish and Ordaine that the said Orders Laws Statutes and Ordinances be by the first opportunity after the makeing therof sent or Transmitted vnto vs Our Heires and Successors vnder the Publique Seale to be appointed by vs for Our or their approbation or Disallowance And that incase all or any of them shall at any time within the space of three yeares next after the same shall have been presented to vs our Heires and Successors in Our or their Privy Councill be disallowed and reiected and soe signified by vs Our Heires and Successors vnder our or their Signe Manuall and Signett or by or in our or their Privy Councill vnto the Governor for the time being then such and soe many of them as shall be soe disallowed and riected† shall thenceforth cease and determine and become vtterly void and of none effect *Provided* alwais that incase Wee our Heires or Successors shall not within the Terme of Three Yeares after the presenting of such Orders Lawes Statutes or Ordinances as aforesaid signifie our or their Disallowance of the same Then the said orders Lawes Statutes or Ordinances shall be and continue in full force and effect according to the true Intent and meaneing of the same vntill the Expiracon thereof or that the same shall be Repealed by the Generall Assembly of our said province for the time being *Provided* alsoe that it shall and may be Lawfull for the said Governor and Generall Assembly to make or passe any Grant of Lands lying within the Bounds of the Colonys formerly called the Collonys of the Massachusetts Bay and New Plymouth and province of Main in such manner as heretofore they might have done by vertue of

* Profession. † Rejected.



any former Charter or Letters Patents which grants of lands within the Bounds aforesaid Wee doe hereby Will and ordaine to be and continue for ever of full force and effect without our further Approbation or Consent *And* soe as Neverthelesse and it is Our Royall Will and Pleasure That noe Grant or Grants of any Lands lying or extending from the River of Sagadehock to the Gulph of S! Lawrence and Canada Rivers and to the Main Sea Northward and Eastward to be made or past by the Governor and Generall Assembly of our said Province be of any force validity or Effect vntill Wee Our Heires and Successors shall have Signified Our or their Approbacōn of the same *And* Wee doe by these presents for vs Our Heires and Successors Grant Establish and Ordaine that the Governor of our said Province or Territory for the time being shall have full Power by himselfe or by any Cheif Cōmander or other Officer or Officers to be appointed by him from time to time to traine instruct Exercise and Governe the Militia there and for the speciall Defence and Safety of Our said Province or Territory to assemble in Martiall Array and put in Warlike posture the Inhabitants of Our said Province or Territory and to lead and Conduct them and with them to Encounter Expulse Repell Resist and pursue by force of Armes aswell by Sea as by Land within or without the limitts of Our said Province or Territory and alsoe to kill slay destroy and Conquer by all fitting wayes Enterprises and meanes whatsoever all and every such Person and Persons as shall at any time hereafter Attempt or Enterprize the destruccōn Invasion Detriment or Annoyance of Our said Province or Territory and to vse and exercise the Law Martiall in time of actuall Warr Invasion or Rebellion as occasion shall necessarily require and alsoe from time to time to Erect Forts and to fortifie any place or Places within Our said Province or Territory and the same to furnish with all necessary Am̄unicōn Provisions and Stores of Warr for Offence or Defence and to comitt from time to time the Custody and Government of the same to such Person or Persons as to him shall seem meet And the said Forts and Fortificacōns to demolish at his Pleasure and to take and surprise by all waies and meanes whatsoever all and every such Person or Persons with their Shipps Arms Ammuncōn and other goods as shall in a hostile manner Invade or attempt the Invading Conquering or Annoying of Our said Province or Territory *Provided* alwayes and Wee doe by these presents for Vs Our Heires and Successors Grant Establish and Ordeyne That the said Governour shall not at any time hereafter by vertue of any power hereby granted or hereafter to be granted to him Transport any of the Inhabitants of Our said Province or Territory or oblige them to march out of the Limitts of the same without their Free and voluntary consent or the Consent of the Great and Generall Court or Assembly of Our said Province or Territory nor grant Cōmissions for exerciseing the Law Martiall vpon any the Inhabitants of Our said Province or Territory without the Advice and Consent of the Councill or Assistants of the same *Provided* in like manner and Wee doe by these presents for Vs Our Heires and Successors Constitute and Ordeyne that when and as often as the Governour of Our said Province for the time being shall happen to dye or be displaced by Vs Our Heires or Successors or be absent from his Government That then and in any of the said Cases the Leivtenant or Deputy Governour of Our said Province for the time being shall have full power and authority to doe and execute all and every such Acts Matters and things which Our Governour of Our said Province for the time being might or could by vertue of these Our Letter Patents lawfully doe or execute if he were personally present vntill the returne of the Governour soe absent or Arrivall or Constitucōn of such other Governour as shall or may be appointed by Vs Our Heires or Successors in his stead and that when and as often as the Governour and Leivtenant or Deputy Governour of Our said Province or Territory for the time being shall happen to dye or be displaced by Vs Our Heires or Successors or be absent from Our said Province and that there shall be no person within the said Province Cōmissionated by Vs Our Heires or Successors to be Governour within the same Then and in every of the said cases the Councill or Assistants of Our said Province shall have full power and Authority and Wee doe hereby give and grant vnto the said Councill or Assistants of Our said Province for the time being or the Major parte of them full power and Authority to doe and execute all and every such Acts matters and things which the said Governour or Leivtenant or Deputy Governour of Our said Province

or Territory for the time being might or could lawfully doe or exercise if they or either of them were personally present vntill the returne of the Governour Leivtenant or Deputy Governour soe absent or Arrivall or Constitucõn of such other Governour or Leivtenant or Deputy Governour as shall or may be appointed by Vs Our Heires or Successors from time to time *Provided* alwaies and it is hereby declared that nothing herein shall extend or be taken to Erect or grant or allow the Exercise of any Admirall Court Jurisdicõn Power or Authority but that the same shall be and is hereby reserved to Vs and Our Successors and shall from time to time be Erected Granted and exercised by vertue of Comissions to be yssued vnder the Great Seale of England or vnder the Seale of the High Admirall or the Comissioners for executing the Office of High Admirall of England *And further* Our expresse Will and Pleasure is And Wee doe by these presents for Vs Our Heires and Successors Ordaine and appoint that these Our Letters Patents shall not in any manner Enure or be taken to abridge bar or hinder any of Our loveing Subjects whatsoever to vse and exercise the Trade of Fishing vpon the Coasts of New England but that they and every of them shall have full and free power and Libertie to continue and vse their said Trade of Fishing vpon the said Coasts in any of the seas therevnto adjoyning or any Arms of the said Seas or Salt Water Rivers where they have been wont to fish and to build and set vpon the Lands within Our said Province or Collony lying wast and not then possesst by perticuler Proprietors such Wharfes Stages and Workhouses as shall be necessary for the salting drying keeping and packing of their Fish to be taken or gotten vpon that Coast And to Cutt down and take such Trees and other Materialls there growing or being or growing vpon any parts or places lying wast and not then in possession of particuler proprietors as shall be needfull for that purpose and for all other necessary easments helps and advantages concerning the Trade of Fishing there in such manner and forme as they have been heretofore at any time accustomed to doe without makeing any Wilfull Wast or Spoile any thing in these presents conteyned to the contrary notwithstanding *And lastly* for the better provideing and furnishing of Masts for Our Royall Navy Wee doe hereby reserve to Vs Our Heires and Successors all Trees of the Diameter of Twenty Four Inches and vpwards of Twelve Inches from the ground growing vpon any soyle or Tract of Land within Our said Province or Territory not heretofore granted to any private persons And Wee doe restraine and forbid all persons whatsoever from felling cutting or destroying any such Trees without the Royall Lycence of Vs Our Heires and Successors first had and obteyned vpon penalty of Forfeiting One Hundred Pounds sterling vnto Ous Our Heires and Successors for every such Tree soe felled cutt or destroyed without such Lycence had and obteyned in that behalfe any thing in these presents conteyned to the contrary in any wise Notwithstanding *In Witnesse* whereof Wee have caused these our Letters to be made Patents *Witnesse* Ourselves att Westminster the Seaventh Day of October in the Third yeare of Our Reigne

By Writt of Privy Seale

PIGOTT

Pro Fine in Hanaperio quadragint Marcas

J. Trevor *C. S.*
W. Rawlinson *C. S.*
G. Hutchins *C. S.**

EXPLANATORY CHARTER OF MASSACHUSETTS BAY—1726.

GEORGE by the Grace of God of Great Britain France and Ireland king Defender of the Faith &c *To all* to whom these Presents shall come Greeting

* Sir John Trevor, Sir William Rawlinson, and Sir George Hutchins were appointed lords commissioners of the great seal May 15, 1690; and were succeeded by Lord Somers as chancellor May 3, 1693.

Whereas Our late Royal Predecessors William and Mary King and Queen of England &c Did by their letters Patents under their Great Seal of England bearing Date at Westminster the Seventh day of October in the Third year of their Reign for themselves their Heires and Successors Vnite Erect and Incorporate the Territories and Colonies commonly called or known by the Names of the Colony of the Massachusetts Bay and Colony of New Plymouth the Province of Main the Territory called Accada or Nova Scotia and all that Tract of land lying between the said Territorys of Nova Scotia and the said Province of Main into One Reall Province by the Name of Our Province of the Massachusetts Bay in New England *And Whereas* their said late Majesties King William and Queen Mary did by the said recited letters Patents (amongst other things therein contained) for themselves their Heires and Successors Ordain and Grant that there should and might be Convened held and kept by the Governor for the time being upon every last Wednesday in the Month of May every year forever and at all such other times as the Governor of their said Province should think fitt and Appoint a Great and Generall Court or Assembly which said Great and Generall Court or Assembly should Consist of the Governour and Council or Assistants for the time being and of such Freeholders of their said Province or Territory as should be from time to time elected or deputed by the major part of the Freeholders and other Inhabitants of the respective Towns or places who should be present at such Eleccons each of the said Towns and places being thereby impowered to Elect and Depute two Persons and no more to Serve for and represent them respectively in the said Great and Generall Court or Assembly and that the Governor for the time being should have full Power and Authority from time to time as he should Judge necessary to adjourn Prorogue and Dissolve all Great and General Courts or Assemblies met and Convened as aforesaid And did thereby also for themselves their Heires and Successors Provide Establish and Ordain that in the Framing and Passing of all Orders laws Statutes and Ordinances and in all Eleccons and Acts of Government whatsoever to be passed made or done by the said General Court or Assembly or in Council the Governor of the said Province or Territory of the Massachusetts Bay in New England for the time being should have the Negative Voice and that without his Consent or Approbacon Signified and Declared in writing no such Orders laws Statutes Ordinances Eleccons or other Acts of Government whatsoever so to be made passed or done by the said General Assembly or in Council should be of any force Effect or Validity any thing therein contained to the contrary in any wise notwithstanding as in and by the said letters Patents (relacon being therevnto had) may more fully and at large appeare *And Whereas* no provision is made by the said recited letters Patents touching the Nominacon and Eleccon of a Speaker of the Representatives Assembled in any Great and Generall Court of Our said Province nor any particular Reservacon made of the Right of Vs Our Heires and Successors to approve or disapprove of such Speaker by the Governor of the said Province appointed or to be appointed by Vs or them for the time being And no power is Granted by the said recited letters Patents to the said House of Representatives to adjourn themselves for any time whatsoever by means whereof divers Doubts and Controversies have Arisen within Our said Province to the Interrupcon of the Publick Business thereof and the obstruccon of Our Service *Know Yee* therefore that for removing the said Doubts and Controversies and preventing the like mischiefs for the future And also for the further Explanacon of the said recited letters Patents Wee of Our Especial Grace certain knowledge and meer mocon Have Granted Ordained and Appointed And by these Presents for Vs Our Heirs and Successors Do Will Grant Ordain and Appoint that for ever hereafter the Representatives Assembled in any Great or General Court of Our said Province to be hereafter Summoned shall upon the first day of their Assembling Elect a fit Person out of the said Representatives to be Speaker of the House of Representatives in such General Court and that the Person so Elected shall from time to time be presented to the Governor of Our said Province for the time being or in his absence to the lieutenant Governor or Comander in Chief of Our said Province for the time being for his Approbacon to which Governor lieutenant Governor and Comander in Chief respectively Wee do hereby for Vs Our Heires and Successors Give full power and Authority

to approve or disapprove of the Person so Elected and presented which approbacon or disapprobacon shall be Signifyed by him by Message in writing under his Hand to the said House of Representatives And in Case such Governour lieutenant Governor or Comander in Chief shall disapprove of the Person so Elected and presented or the Person so Elected and presented being approved as aforesaid shall happen to dye or by Sickness or otherwise be disabled from Officiating as Speaker in every such Case the said Representatives so Assembled shall forthwith Elect an other Person to be Speaker of the House of Representatives to be presented and approved or disapproved in manner as aforesaid and so from time to time as often as the Person so Elected and presented shall be disapproved of or happen to dye or become disabled as aforesaid *And* Our further Will and Pleasure is and Wee do by these presents of Our more abundant Grace for Vs Our Heires and Successors Grant Ordain and Appoint that it shall and may be lawfull to and for the Representatives assembled in any Great or Generall Court of Our said Province for the time being for ever hereafter to Adjourn themselves from day to day (and if occasion shall require) for the space of two days but not for any longer time than for the space of two days without leave from the Governor or in his Absence [from] the lieutenant Governor or Comander in Chief of Our said Province for the time being first had and obtained in that behalfe any thing in the said recited letters Patents contained to the Contrary thereof in any wise Notwithstanding Provided always that nothing in these presents contained shall Extend or be Construed to Extend to revoke alter or prejudice the Power and Authority by the said recited letters Patents Granted to the Governor of the said Province for the time being to Adjourn Prorogue and Dissolve all Great and General Courts or Assemblies of Our said Province. *And Lastly* Wee do by these presents for Vs Our Heires and Successors Grant that these Our letters Patents or the Enrollment or Exemplificacon thereof shall be in and by all things good firm valid and Effectual in the law according to the true intent and meaning thereof notwithstanding the not rightly or fully reciting mencconing or describing the said recited letters Patents or the Date thereof or any other Omission Imperfeccon Defect matter Cause or thing whatsoever to the Contrary thereof in any wise notwithstanding *In witness* whereof Wee have Caused these Our letters to be made Patents *Witness* William Archbishop of Canterbury and the rest of the Guardians and Justices of the Kingdom at Westminster the Six and twentieth day of August in the twelfth year of Our Reign

By Writ of Privy Seal

COCKS

CONSTITUTION OF MASSACHUSETTS—1780.*

PREAMBLE.

The end of the institution, maintenance, and administration of government is to secure the existence of the body-politic, to protect it, and to furnish the individuals who compose it with the power of enjoying, in safety and tranquillity, their natural rights and the blessings of life; and whenever these great objects are not obtained the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness.

The body-politic is formed by a voluntary association of individuals; it is a social compact by which the whole people covenants with each citizen and each citizen with

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* This constitution (one adopted by the general court in 1778 having been rejected by the people), was framed by a convention which met at Boston September 1, 1779, and, after several adjournments, completed its labors March 2, 1780. It was submitted to the people, and ratified by more than two-thirds of those who voted.

The convention held in 1820–'21 framed a number of amendments, which, with a number of amendments subsequently adopted by the legislature, at different times, were ratified by the people.

A new constitution, framed by a convention which met at Boston May 7, 1853, and completed its labors August 1, 1753, was not ratified by the people, receiving 63,222 votes against 68,150 votes.

the whole people that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation and a faithful execution of them; that every man may, at all times, find his security in them.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence, or surprise, of entering into an original, explicit, and solemn compact with each other, and of forming a new constitution of civil government for ourselves and posterity; and devoutly imploring His direction in so interesting a design, do agree upon, ordain, and establish the following declaration of rights and frame of government as the constitution of the commonwealth of Massachusetts.

PART THE FIRST.

A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE COMMONWEALTH OF MASSACHUSETTS.

ARTICLE I. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

ART. II. It is the right as well as the duty of all men in society, publicly and at stated seasons, to worship the Supreme Being, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience, or for his religious profession or sentiments, provided he doth not disturb the public peace or obstruct others in their religious worship.

ART. III. As the happiness of a people and the good order and preservation of civil government essentially depend upon piety, religion, and morality, and as these cannot be generally diffused through a community but by the institution of the public worship of God and of public instructions in piety, religion, and morality: Therefore, To promote their happiness and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies-politic or religious societies to make suitable provision, at their own expense, for the institution of the public worship of God and for the support and maintenance of public Protestant teachers of piety, religion, and morality in all cases where such provision shall not be made voluntarily.

And the people of this commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

Provided, notwithstanding, That the several towns, parishes, precincts, and other bodies-politic, or religious societies, shall at all times have the exclusive right of electing their public teachers and of contracting with them for their support and maintenance.

And all moneys paid by the subject to the support of public worship and of the public teachers aforesaid shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid toward the support of the teacher or teachers of the parish or precinct in which the said moneys are raised.

And every denomination of Christians, demeaning themselves peaceably and as good subjects of the commonwealth, shall be equally under the protection of the

law; and no subordination of any one sect or denomination to another shall ever be established by law.

ART. IV. The people of this commonwealth have the sole and exclusive right of governing themselves as a free, sovereign, and independent State, and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right which is not, or may not hereafter be, by them expressly delegated to the United States of America in Congress assembled.

ART. V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government vested with authority, whether legislative, executive, or judicial, are the substitutes and agents, and are at all times accountable to them.

ART. VI. No man nor corporation or association of men have any other title to obtain advantages, or particular and exclusive privileges distinct from those of the community, than what rises from the consideration of services rendered to the public, and this title being in nature neither hereditary nor transmissible to children or descendants or relations by blood; the idea of a man born a magistrate, lawgiver, or judge is absurd and unnatural.

ART. VII. Government is instituted for the common good, for the protection, safety, prosperity, and happiness of the people, and not for the profit, honor, or private interest of any one man, family, or class of men; therefore the people alone have an incontestable, unalienable, and indefeasible right to institute government, and to reform, alter, or totally change the same when their protection, safety, prosperity, and happiness require it.

ART. VIII. In order to prevent those who are vested with authority from becoming oppressors, the people have a right at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

ART. IX. All elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.

ART. X. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty, and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary; but no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this commonwealth are not controllable by any other laws than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

ART. XI. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay, conformably to the laws.

ART. XII. No subject shall be held to answer for any crimes or no offence until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself; and every subject shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

ART. XIII. In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

ART. XIV. Every subject has a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation, and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued but in cases, and with the formalities, prescribed by the laws.

ART. XV. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it.

ART. XVI. The liberty of the press is essential to the security of freedom in a State; it ought not, therefore, to be restrained in this commonwealth.

ART. XVII. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority and be governed by it.

ART. XVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives; and they have a right to require of their lawgivers and magistrates an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the commonwealth.

ART. XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

ART. XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

ART. XXI. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

ART. XXII. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

ART. XXIII. No subsidy, charge, tax, impost, or duties, ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature.

ART. XXIV. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

ART. XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

ART. XXVI. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

ART. XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

ART. XXVIII. No person can in any case be subjected to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

ART. XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well, and that they should have honorable salaries ascertained and established by standing laws.

ART. XXX. In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end it may be a government of laws, and not of men.

PART THE SECOND.

THE FRAME OF GOVERNMENT.

The people inhabiting the territory formerly called the province of Massachusetts Bay do hereby solemnly and mutually agree with each other to form themselves into a free, sovereign, and independent body-politic or State, by the name of the commonwealth of Massachusetts.

CHAPTER I.—THE LEGISLATIVE POWER.

SECTION I.—THE GENERAL COURT.

ARTICLE I. The department of legislation shall be formed by two branches, a senate and house of representatives; each of which shall have a negative on the other.

The legislative body shall assemble every year on the last Wednesday in May, and at such other times as they shall judge necessary; and shall dissolve and be dissolved on the day next preceding the said last Wednesday in May; and shall be styled the *General Court of Massachusetts.*

ART. II. No bill or resolve of the senate or house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revisal; and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the senate or house of representatives, in whichsoever the same shall have originated, who shall enter the objections sent down by the governor, at large, on their records, and proceed to reconsider the said bill or resolve; but if, after such reconsideration, two-thirds of the said senate or house of representatives shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall have the force of law; but in all such cases, the vote of both houses shall be determined by yeas and nays; and the names of the persons voting for or against the said bill or resolve shall be entered upon the public records of the commonwealth.

And in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the governor within five days after it shall have been presented, the same shall have the force of law.

ART. III. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record or other courts, to be held in the name of the commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, plaints, actions, matters, causes, and things whatsoever, arising or happening within the commonwealth, or between or concerning persons inhabiting or residing, or brought within the same; whether the same be crimi-

nal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and making out of execution thereupon; to which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy, or depending before them.

ART. IV. And further, full power and authority are hereby given and granted to the said general court from time to time, to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without, so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws, for the naming and settling all civil officers within the said commonwealth, the election and constitution of whom are not hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits of the several civil and military officers of this commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said commonwealth; and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandise, and commodities whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the governor of this commonwealth, for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of the said commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates within the commonwealth, taken anew once in every ten years at least, and as much oftener as the general court shall order.

CHAPTER I.

SECTION 2.—SENATE.

ARTICLE I. There shall be annually elected, by the freeholders and other inhabitants of this commonwealth, qualified as in this constitution is provided, forty persons to be councillors and senators, for the year ensuing their election; to be chosen by the inhabitants of the districts into which the commonwealth may from time to time be divided by the general court for that purpose; and the general court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; and timely make known to the inhabitants of the commonwealth the limits of each district, and the number of councillors and senators to be chosen therein: *Provided*, That the number of such districts shall never be less than thirteen; and that no district be so large as to entitle the same to choose more than six senators.

And the several counties in this commonwealth shall, until the general court shall determine it necessary to alter the said districts, be districts for the choice of councillors and senators, (except that the counties of Dukes County and Nantucket shall form one district for that purpose,) and shall elect the following number for councillors and senators, viz:

Suffolk, six; Essex, six; Middlesex, five; Hampshire, four; Plymouth, three; Barnstable, one; Bristol, three; York, two; Dukes County and Nantucket, one; Worcester, five; Cumberland, one; Lincoln, one; Berkshire, two.

ART. II. The senate shall be the first branch of the legislature; and the senators

shall be chosen in the following manner, viz: There shall be a meeting on the first Monday in April, annually, forever, of the inhabitants of each town in the several counties of this commonwealth, to be called by the selectmen, and warned in due course of law, at least seven days before the first Monday in April, for the purpose of electing persons to be senators and councillors; and at such meetings every male inhabitant of twenty-one years of age and upwards, having a freehold estate within the commonwealth of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to give in his vote for the senators for the district of which he is an inhabitant. And to remove all doubts concerning the meaning of the word "inhabitant," in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office or place within this State, in that town, district, or plantation where he dwelleth or hath his home.

The selectmen of the several towns shall preside at such meetings impartially, and shall receive the votes of all the inhabitants of such towns, present and qualified to vote for senators, and shall sort and count them in open town meeting, and in presence of the town clerk, who shall make a fair record, in presence of the selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name; and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up, directed to the secretary of the commonwealth, for the time being, with a superscription expressing the purport of the contents thereof, and delivered by the town clerk of such towns to the sheriff of the county in which such town lies, thirty days at least before the last Wednesday in May, annually; or it shall be delivered into the secretary's office seventeen days at least before the said last Wednesday in May; and the sheriff of each county shall deliver all such certificates, by him received, into the secretary's office seventeen days before the said last Wednesday in May.

And the inhabitants of plantations unincorporated, qualified as this constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for councillors and senators, in the plantations where they reside, as town inhabitants have in their respective towns; and the plantation meetings for that purpose shall be held annually, on the same first Monday in April, at such place in the plantations, respectively, as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns by this constitution. And all other persons living in places unincorporated, (qualified as aforesaid,) who shall be assessed to the support of government by the assessors of an adjacent town, shall have the privilege of giving in their votes for councillors and senators in the town where they shall be assessed, and be notified of the place of meeting by the selectmen of the town where they shall be assessed, for that purpose, accordingly.

Art. III. And that there may be a due convention of senators, on the last Wednesday in May, annually, the governor, with five of the council, for the time being, shall, as soon as may be, examine the returned copies of such records; and fourteen days before the said day he shall issue his summons to such persons as shall appear to be chosen by a majority of voters to attend on that day, and take their seats accordingly: *Provided, nevertheless*, That for the first year the said returned copies shall be examined by the president and five of the council of the former constitution of government; and the said president shall, in like manner, issue his summons to the persons so elected, that they may take their seats as aforesaid.

Art. IV. The senate shall be the final judge of the elections, returns, and qualifications of their own members, as pointed out in the constitution; and shall, on the said last Wednesday in May, annually, determine and declare who are elected by each district to be senators by a majority of votes; and in case there shall not be the full number of senators returned, elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz: The members of the house of representatives, and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in such dis-

trict, and not elected, amounting to twice the number of senators wanting, if there be so many voted for, and out of these shall elect by ballot a number of senators sufficient to fill up the vacancies in such district; and in this manner all such vacancies shall be filled up in every district of the commonwealth; and in like manner all vacancies in the senate, arising by death, removal out of the State or otherwise, shall be supplied as soon as may be after such vacancies shall happen.

ART. V. *Provided, nevertheless*, That no person shall be capable of being elected as a senator [who is not seized in his own right of a freehold within this commonwealth, of the value of three hundred pounds at least, or possessed of personal estate to the value of six hundred pounds at least, or of both to the amount of the same sum, and] who has not been an inhabitant of this commonwealth for the space of five years immediately preceding his election, and, at the time of his election, he shall be an inhabitant in the district for which he shall be chosen.

ART. VI. The senate shall have power to adjourn themselves; provided such adjournments do not exceed two days at a time.

ART. VII. The senate shall choose its own president, appoint its own officers, and determine its own rules of proceedings.

ART. VIII. The senate shall be a court, with full authority to hear and determine all impeachments made by the house of representatives, against any officer or officers of the commonwealth, for misconduct and maladministration in their offices; but, previous to the trial of every impeachment, the members of the senate shall, respectively, be sworn truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office, and disqualification to hold or enjoy any place of honor, trust, or profit under this commonwealth; but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment, and punishment, according to the laws of the land.

ART. IX. Not less than sixteen members of the senate shall constitute a quorum for doing business.

CHAPTER I.

SECTION 3.—HOUSE OF REPRESENTATIVES.

ARTICLE I. There shall be, in the legislature of this commonwealth, a representation of the people, annually elected, and founded upon the principle of equality.

ART. II. And in order to provide for a representation of the citizens of this commonwealth, founded upon the principle of equality, every corporate town containing one hundred and fifty ratable polls, may elect one representative; every corporate town containing three hundred and seventy-five ratable polls, may elect two representatives; every corporate town containing six hundred ratable polls, may elect three representatives; and proceeding in that manner, making two hundred and twenty-five ratable polls the mean increasing number for every additional representative.

Provided, nevertheless, That each town now incorporated, not having one hundred and fifty ratable polls, may elect one representative; but no place shall hereafter be incorporated with the privilege of electing a representative, unless there are within the same one hundred and fifty ratable polls.

And the house of representatives shall have power, from time to time, to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this constitution.

The expenses of travelling to the general assembly and returning home, once in every session, and no more, shall be paid by the government out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave.

ART. III. Every member of the house of representatives shall be chosen by written votes; and, for one year at least next preceding his election, shall have been an inhabitant of, and have been seized in his own right of a freehold of the value of one hundred pounds, within the town he shall be chosen to represent, or any ratable estate to the value of two hundred pounds; and he shall cease to represent the said town immediately on his ceasing to be qualified as aforesaid.



ART. IV. Every male person being twenty-one years of age, and resident in any particular town in this commonwealth, for the space of one year next preceding, having a freehold estate within the same town, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a representative or representatives for the said town.

ART. V. The members of the house of representatives shall be chosen annually in the month of May, ten days at least before the last Wednesday of that month.

ART. VI. The house of representatives shall be the grand inquest of this commonwealth; and all impeachments made by them shall be heard and tried by the senate.

ART. VII. All money bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

ART. VIII. The house of representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time.

ART. IX. Not less than sixty members of the house of representatives shall constitute a quorum for doing business.

ART. X. The house of representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution; shall choose their own speaker, appoint their own officers, and settle the rules and order of proceeding in their own house. They shall have authority to punish by imprisonment every person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in its presence; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for anything said or done in the house; or who shall assault any of them therefor; or who shall assault or arrest any witness, or other person, ordered to attend the house, in his way in going or returning; or who shall rescue any person arrested by the order of the house.

And no member of the house of representatives shall be arrested, or held to bail on mesne process, during his going unto, returning from, or his attending the general assembly.

ART. XI. The senate shall have the same powers in the like cases; and the governor and council shall have the same authority to punish in like cases: *Provided*, That no imprisonment, on the warrant or order of the governor, council, senate, or house of representatives, for either of the above-described offences, be for a term exceeding thirty days.

And the senate and house of representatives may try and determine all cases where their rights and privileges are concerned, and which, by the constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may, respectively, think best.

CHAPTER II.—EXECUTIVE POWER.

SECTION I.—GOVERNOR.

ARTICLE I. There shall be a supreme executive magistrate, who shall be styled "The governor of the commonwealth of Massachusetts;" and whose title shall be "His Excellency."

ART. II. The governor shall be chosen annually; and no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this commonwealth for seven years next preceding; and unless he shall, at the same time, be seized, in his own right, of a freehold, within the commonwealth, of the value of one thousand pounds; and unless he shall declare himself to be of the Christian religion.

ART. III. Those persons who shall be qualified to vote for senators and representatives, within the several towns of this commonwealth, shall, at a meeting to be called for that purpose, on the first Monday of April, annually, give in their votes for a governor to the selectmen, who shall preside at such meetings; and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes

for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen; and transmit the same to the sheriff of the county, thirty days at least before the last Wednesday in May; and the sheriff shall transmit the same to the secretary's office, seventeen days at least before the said last Wednesday in May; or the selectmen may cause returns of the same to be made, to the office of the secretary of the commonwealth, seventeen days at least before the said day; and the secretary shall lay the same before the senate and the house of representatives, on the last Wednesday in May, to be by them examined; and in case of an election by a majority of all the votes returned, the choice shall be by them declared and published; but if no person shall have a majority of votes, the house of representatives shall, by ballot, elect two out of four persons, who had the highest number of votes, if so many shall have been voted for; but, if otherwise, out of the number voted for; and make return to the senate of the two persons so elected; on which the senate shall proceed, by ballot, to elect one, who shall be declared governor.

ART. IV. The governor shall have authority, from time to time, at his discretion, to assemble and call together the councillors of this commonwealth for the time being; and the governor, with the said councillors, or five of them at least, shall and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, agreeably to the constitution and the laws of the land.

ART. V. The governor, with advice of council, shall have full power and authority, during the session of the general court, to adjourn or prorogue the same at any time the two houses shall desire; and to dissolve the same on the day next preceding the last Wednesday in May; and, in the recess of the said court, to prorogue the same from time to time, not exceeding ninety days in any one recess;] and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the commonwealth shall require the same; and in case of any infectious distemper prevailing in the place where the said court is next at any time to convene, or any other cause happening, whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other the most convenient place within the State.

And the governor shall dissolve the said general court on the day next preceding the last Wednesday in May.

ART. VI. In cases of disagreement between the two houses, with regard to the necessity, expediency, or time of adjournment or prorogation, the governor, with advice of the council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, as he shall determine the public good shall require.

ART. VII. The governor of this commonwealth, for the time being, shall be the commander-in-chief of the army and navy, and of all the military forces of the State, by sea and land; and shall have full power, by himself or by any commander, or other officer or officers, from time to time, to train, instruct, exercise, and govern the militia and navy; and, for the special defence and safety of the commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, repel, resist, expel, and pursue, by force of arms, as well by sea as by land, within or without the limits of this commonwealth; and also to kill, slay, and destroy, if necessary, and conquer, by all fitting ways, enterprises, and means whatsoever, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprise the destruction, invasion, detriment, or annoyance of this commonwealth; and to use and exercise over the army and navy, and over the militia in actual service, the law-martial, in time of war or invasion, and also in time of rebellion, declared by the legislature to exist, as occasion shall necessarily require; and to take and surprise, by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall, in a hostile manner, invade, or attempt the invading, conquering, or annoying this commonwealth; and that the governor be intrusted with all these and other powers incident to the offices of captain-

general and commander-in-chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution and the laws of the land, and not otherwise.

Provided, That the said governor shall not, at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court; except so far as may be necessary to march or transport them by land or water for the defence of such part of the State to which they cannot otherwise conveniently have access.

ART. VIII. The power of pardoning offences, except such as persons may be convicted of before the senate, by an impeachment of the house, shall be in the governor, by and with the advice of council; but no charter or pardon, granted by the governor, with advice of the council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

ART. IX. All judicial officers, [the attorney-general, the solicitor-general, all sheriffs,] coroners, [and registers of probate,] shall be nominated and appointed by the governor, by and with the advice and consen tof the council; and every such nomination shall be made by the governor, and made at least seven days prior to such appointment.

ART. X. The captains and subalterns of the militia shall be elected by the written votes of the train-band and alarm-list of their respective companies, [of twenty-one years of age and upwards;] the field-officers of regiments shall be elected by the written votes of the captains and subalterns of their respective regiments; the brigadiers shall be elected, in like manner, by the field-officers of their respective brigades; and such officers, so elected, shall be commissioned by the governor, who shall determine their rank.

The legislature shall, by standing laws, direct the time and manner of convening the electors, and of collecting votes, and of certifying to the governor the officers elected.

The major-generals shall be appointed by the senate and house of representatives, each having a negative upon the other; and be commissioned by the governor.

And if the electors of brigadiers, field-officers, captains, or subalterns shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the governor, with the advice of council, shall appoint suitable persons to fill such offices.

And no officer, duly commissioned to command in the militia, shall be removed from his office, but by the address of both houses to the governor, or by fair trial in court-martial, pursuant to the laws of the commonwealth for the time being.

The commanding officers of regiments shall appoint their adjutants and quartermasters; the brigadiers, their brigade-majors; and the major-generals, their aids; and the governor shall appoint the adjutant-general.

The governor, with the advice of council, shall appoint all officers of the Continental Army, whom, by the Confederation of the United States, it is provided that this commonwealth shall appoint, as also all officers of forts and garrisons.

The divisions of the militia into brigades, regiments, and companies, made in pursuance of the militia-laws now in force, shall be considered as the proper divisions of the militia of this commonwealth, until the same shall be altered in pursuance of some future law.

ART. XI. No moneys shall be issued out of the treasury of this commonwealth and disposed of, (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon,) but by warrant under the hand of the governor for the time being, with the advice and consent of the council for the necessary defence and support of the commonwealth, and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

ART. XII. All public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this commonwealth, and all commanding

officers of forts and garrisons within the same, shall, once in every three months, officially and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon, with their appendages, and small-arms with their accoutrements, and of all other public property whatever under their care, respectively; distinguishing the quantity, number, quality, and kind of each, as particularly as may be; together with the condition of such forts and garrisons; and the said commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea, or harbor or harbors, adjacent.

And the said boards, and all public officers, shall communicate to the governor, as soon as may be after receiving the same, all letters, dispatches, and intelligences of a public nature, which shall be directed to them respectively.

Art. XIII. As the public good requires that the governor should not be under the undue influence of any of the members of the general court, by a dependence on them for his support; that he should, in all cases, act with freedom for the benefit of the public; that he should not have his attention necessarily diverted from that object to his private concerns; and that he should maintain the dignity of the commonwealth in the character of its chief magistrate, it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws; and it shall be among the first acts of the general court, after the commencement of this constitution, to establish such salary by law accordingly.

Permanent and honorable salaries shall also be established by law for the justices of the supreme judicial court.

And if it shall be found that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged, as the general court shall judge proper.

CHAPTER II.

SECTION 2.—LIEUTENANT-GOVERNOR.

Article I. There shall be annually elected a lieutenant-governor of the commonwealth of Massachusetts, whose title shall be "His Honor;" and who shall be qualified, in point of religion, property, and residence in the commonwealth, in the same manner with the governor; and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner; and if no one person shall be found to have a majority of all the votes returned, the vacancy shall be filled by the senate and house of representatives, in the same manner as the governor is to be elected, in case no one person shall have a majority of the votes of the people to be governor.

Art. II. The governor, and in his absence the lieutenant-governor, shall be president of the council; but shall have no voice in council; and the lieutenant-governor shall always be a member of the council, except when the chair of the governor shall be vacant.

Art. III. Whenever the chair of the governor shall be vacant, by reason of his death, or absence from the commonwealth, or otherwise, the lieutenant-governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities which, by this constitution, the governor is vested with, when personally present.

CHAPTER II.

SECTION 3.—COUNCIL, AND THE MANNER OF SETTLING ELECTIONS BY THE LEGISLATURE.

Article I. There shall be a council, for advising the governor in the executive part of the government, to consist of nine persons besides the lieutenant-governor, whom the governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together; and the governor, with the said councillors, or five of them at least, shall and may, from time to time, hold

and keep a council, for the ordering and directing the affairs of the commonwealth, according to the laws of the land.

Art. II. Nine councillors shall be annually chosen from among the persons returned for councillors and senators, on the last Wednesday in May, by the joint ballot of the senators and representatives assembled in one room; and in case there shall not be found, upon the first choice, the whole number of nine persons who will accept a seat in the council, the deficiency shall be made up by the electors aforesaid from among the people at large; and the number of senators left shall constitute the senate for the year. The seats of the persons thus elected from the senate, and accepting the trust, shall be vacated in the senate.

Art. III. The councillors, in the civil arrangements of the commonwealth, shall have rank next after the lieutenant-governor.

Art. IV. Not more than two councillors shall be chosen out of any one district in this commonwealth.

Art. V. The resolutions and advice of the council shall be recorded in a register and signed by the members present; and this record may be called for, at any time, by either house of the legislature; and any member of the council may insert his opinion, contrary to the resolution of the majority.

Art. VI. Whenever the office of the governor and lieutenant-governor shall be vacant by reason of death, absence, or otherwise, then the council, or the major part of them, shall, during such vacancy, have full power and authority to do and execute all and every such acts, matters, and things, as the governor or the lieutenant-governor might or could, by virtue of this constitution, do or execute, if they, or either of them, were personally present.

Art. VII. And whereas the elections appointed to be made by this constitution on the last Wednesday in May annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day, until the same shall be completed. And the order of elections shall be as follows: The vacancies in the senate, if any, shall first be filled up; the governor and lieutenant-governor shall then be elected, provided there should be no choice of them by the people; and afterwards the two houses shall proceed to the election of the council.

CHAPTER II.

SECTION 4.—SECRETARY, TREASURER, COMMISSARY, ETC.

Article I. The secretary, treasurer, and receiver-general, and the commissary-general, notaries public, and naval officers, shall be chosen annually, by joint ballot of the senators and representatives, in one room. And, that the citizens of this commonwealth may be assured, from time to time, that the moneys remaining in the public treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as treasurer and receiver-general more than five years successively.

Art. II. The records of the commonwealth shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable; and he shall attend the governor and council, the senate and house of representatives in person or by his deputies, as they shall respectively require.

CHAPTER III.

JUDICIARY POWER.

Article I. The tenure that all commission officers shall by law have in their offices shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned, and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this constitution: *Provided, nevertheless,* The governor, with consent of the council, may remove them upon the address of both houses of the legislature.

Art. II. Each branch of the legislature, as well as the governor and council, shall

have authority to require the opinions of the justices of the supreme judicial court upon important questions of law, and upon solemn occasions.

Art. III. In order that the people may not suffer from the long continuance in place of any justice of the peace, who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of justices of the peace shall expire and become void in the term of seven years from their respective dates; and, upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well-being of the commonwealth.

Art. IV. The judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require; and the legislature shall, from time to time, hereafter, appoint such times and places; until which appointments the said courts shall be holden at the times and places which the respective judges shall direct.

Art. V. All causes of marriage, divorce, and alimony, and all appeals from the judges of probate, shall be heard and determined by the governor and council until the legislature shall, by law, make other provision.

CHAPTER IV.

DELEGATES TO CONGRESS.

The delegates of this commonwealth to the Congress of the United States shall, some time in the month of June, annually, be elected by the joint ballot of the senate and house of representatives assembled together in one room; to serve in Congress for one year, to commence on the first Monday in November, then next ensuing. They shall have commissions under the hand of the governor, and the great seal of the commonwealth; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead.

CHAPTER V.—THE UNIVERSITY AT CAMBRIDGE, AND ENCOURAGEMENT OF LITERATURE, ETC.

SECTION I.—THE UNIVERSITY.

Article I. Whereas our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of God, been initiated in those arts and sciences which qualified them for public employments, both in church and State; and whereas the encouragement of arts and sciences, and all good literature, tends to the honor of God, the advantage of the Christian religion, and the great benefit of this and the other United States of America, it is declared, that the president and fellows of Harvard College, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise, and enjoy all the powers, authorities, rights, liberties, privileges, immunities, and franchises which they now have, or are entitled to have, hold, use, exercise, and enjoy; and the same are hereby ratified and confirmed unto them, the said president and fellows of Harvard College, and to their successors, and to their officers and servants, respectively, forever.

Art. II. And whereas there have been, at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies, and conveyances heretofore made, either to Harvard College in Cambridge, in New England, or to the president and fellows of Harvard College, or to the said college, by some other description, under several charters successively, it is declared, that all the said gifts, grants, devises, legacies, and conveyances are hereby forever confirmed unto the president and fellows of Harvard College, and to their successors, in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, devisor or devisors.

Art. III. And whereas by an act of the general court of the colony of Massachusetts Bay, passed in the year one thousand six hundred and forty-two, the gov-

ernor and deputy governor for the time being, and all the magistrates of that jurisdiction, were, with the President, and a number of the clergy, in the said act described, constituted the overseers of Harvard College; and it being necessary, in this new constitution of government, to ascertain who shall be deemed successors to the said governor, deputy governor, and magistrates, it is declared that the governor, lieutenant-governor, council, and senate of this commonwealth are, and shall be deemed, their successors; who, with the president of Harvard College, for the time being, together with the ministers of the congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining, to the overseers of Harvard College: *Provided*, That nothing herein shall be construed to prevent the legislature of this commonwealth from making such alterations in the government of the said university as shall be conducive to its advantage, and the interest of the republic of letters, in as full a manner as might have been done by the legislature of the late province of the Massachusetts Bay.

CHAPTER V.

SECTION 2.—THE ENCOURAGEMENT OF LITERATURE, ETC.

Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools, and grammar-schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, and good humor, and all social affections and generous sentiments, among the people.

CHAPTER VI.

OATHS AND SUBSCRIPTIONS; INCOMPATIBILITY OF AND EXCLUSION FROM OFFICES; PECUNIARY QUALIFICATIONS; COMMISSIONS; WRITS; CONFIRMATION OF LAWS; HABEAS CORPUS; THE ENACTING STYLE; CONTINUANCE OF OFFICERS; PROVISION FOR A FUTURE REVISAL OF THE CONSTITUTION, ETC.

ARTICLE I. Any person chosen governor, lieutenant-governor, councillor, senator, or representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz:

"I, A. B., do declare that I believe the Christian religion, and have a firm persuasion of its truth; and that I am seized and possessed, in my own right, of the property required by the constitution, as one qualification for the office or place to which I am elected."

And the governor, lieutenant-governor, and councillors shall make and subscribe the said declaration, in the presence of the two houses of assembly; and the senators and representatives, first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards, before the governor and council for the time being.

And every person chosen to either of the places or offices aforesaid, as also any person appointed or commissioned to any judicial, executive, military, or other office under the government, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following declaration and oaths or affirmations, viz:

"I, A. B., do truly and sincerely acknowledge, profess, testify, and declare that the

commonwealth of Massachusetts is, and of right ought to be, a free, sovereign, and independent State, and I do swear that I will bear true faith and allegiance to the said commonwealth, and that I will defend the same against traitorous conspiracies and all hostile attempts whatsoever; and that I do renounce and abjure all allegiance, subjection, and obedience to the King, Queen, or government of Great Britain, (as the case may be,) and every other foreign power whatsoever; and that no foreign prince, person, prelate, state, or potentate hath, or ought to have, any jurisdiction, superiority, preëminence, authority, dispensing or other power, in any matter, civil, ecclesiastical, or spiritual, within this commonwealth; except the authority and power which is or may be vested by their constituents in the Congress of the United States; and I do further testify and declare that no man, or body of men, hath, or can have, any right to absolve or discharge me from the obligation of this oath, declaration, or affirmation; and that I do make this acknowledgment, profession, testimony, declaration, denial, renunciation, and abjuration heartily and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evasion, or secret reservation whatsoever: So help me, God."]

"I, A. B., do solemnly swear and affirm that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and the laws of the commonwealth: So help me, God."

[*Provided always*, That when any person, chosen and appointed as aforesaid, shall be of the demomination of people called Quakers, and shall decline taking the said oaths, he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words, "I do swear," "and abjure," "oath or," "and abjuration," in the first oath; and in the second oath, the words, "swear and," and in each of them the words, "So help me, God;" subjoining instead thereof, "This I do under the pains and penalties of perjury."

And the said oaths or affirmations shall be taken and subscribed by the governor, lieutenant-governor, and councillors, before the president of the senate, in the presence of the two houses of assembly; and by the senators and representatives first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor and council for the time being; and by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the legislature.

ART. II. No governor, lieutenant-governor, or judge of the supreme judicial court shall hold any other office or place, under the authority of this commonwealth, except such as by the constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace through the State; nor shall they hold any other place or office, or receive any pension or salary from any other State, or government, or power, whatever.

No person shall be capable of holding or exercising at the same time, within this State, more than one of the following offices, viz: judge of probate, sheriff, register of probate, or register of deeds; and never more than any two offices, which are to be held by appointment of the governor, or the governor and council, or the senate, or the house of representatives, or by the election of the people of the State at large, or of the people of any county, military offices, and the offices of justices of the peace excepted, shall be held by one person.

No person holding the office of judge of the supreme judicial court, secretary, attorney-general, [solicitor-general,] treasurer or receiver-general, judge of probate, commissary-general, president, professor, or instructor of Harvard College, sheriff, clerk of the house of representatives, register of probate, register of deeds, clerk of the supreme judicial court, [clerk of the inferior court of common pleas,] or officer of the customs, including in this description naval officers, shall at the same time have a seat in the senate or house of representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the senate or house of representatives; and the place so vacated shall be filled up.

And the same rule shall take place in case any judge of the said supreme judicial

court or judge of probate shall accept a seat in council, or any councillor shall accept of either of those offices or places.

And no person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under the government of this commonwealth, who shall in the due course of law have been convicted of bribery or corruption in obtaining an election or appointment.

ART. III. In all cases where sums or money are mentioned in this constitution, the value thereof shall be computed in silver, at six shillings and eight pence per ounce; and it shall be in the power of the legislature, from time to time, to increase such qualifications, as to property, of the persons to be elected to offices as the circumstances of the commonwealth shall require.

ART. IV. All commissions shall be in the name of the commonwealth of Massachusetts, signed by the governor, and attested by the secretary or his deputy, and have the great seal of the commonwealth affixed thereto.

ART. V. All writs, issuing out of the clerk's office in any of the courts of law, shall be in the name of the commonwealth of Massachusetts; they shall be under the seal of the court from whence they issue; they shall bear test of the first justice of the court to which they shall be returnable who is not a party, and be signed by the clerk of such court.

ART. VI. All the laws which have heretofore been adopted, used, and approved in the province, colony, or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature, such parts only excepted as are repugnant to the rights and liberties contained in this constitution.

ART. VII. The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this commonwealth, in the most free, easy, cheap, expeditious, and ample manner, and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

ART. VIII. The enacting style, in making and passing all acts, statutes, and laws, shall be, "*Be it enacted by the senate and house of representatives in general court assembled, and by authority of the same.*"

[ART. IX. To the end there may be no failure of justice or danger arise to the commonwealth from a change of the form of government, all officers, civil and military, holding commissions under the government and people of Massachusetts Bay, in New England, and all other officers of the said government and people, at the time this constitution shall take effect, shall have, hold, use, exercise, and enjoy all the powers and authority to them granted or committed until other persons shall be appointed in their stead; and all courts of law shall proceed in the execution of the business of their respective departments; and all the executive and legislative officers, bodies, and powers shall continue in full force, in the enjoyment and exercise of all their trusts, employments, and authority, until the general court, and the supreme and executive officers under this constitution, are designated and invested with their respective trusts, powers, and authority.

ART. X. In order the more effectually to adhere to the principles of the constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary, the general court which shall be in the year of our Lord one thousand seven hundred and ninety-five shall issue precepts to the selectmen of the several towns, and to the assessors of the unincorporated plantations, directing them to convene the qualified voters of their respective towns and plantations, for the purpose of collecting their sentiments on the necessity or expediency of revising the constitution in order to amendments.

And if it shall appear, by the returns made, that two-thirds of the qualified voters throughout the State, who shall assemble and vote in consequence of the said precepts, are in favor of such revision or amendment, the general court shall issue precepts, or direct them to be issued from the secretary's office, to the several towns to elect delegates to meet in convention for the purpose aforesaid.

And said delegates to be chosen in the same manner and proportion as their

representatives in the second branch of the legislature are by this constitution to be chosen.]

ART. XI. This form of government shall be enrolled on parchment and deposited in the secretary's office, and be a part of the laws of the land, and printed copies thereof shall be prefixed to the book containing the laws of this commonwealth in all future editions of the said laws.

JAMES BOWDOIN, *President.*

SAMUEL BARRETT, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1780.*

RATIFIED 1822.

ARTICLE I. If any bill or resolve shall be objected to and not approved of by the governor, and if the general court shall adjourn within five days after the same shall have been laid before the governor for his approbation, and thereby prevent his returning it, with his objections, as provided by the constitution, such bill or resolve shall not become a law, nor have force as such.

ART. II. The general court shall have full power and authority to erect or constitute municipal or city governments in any corporate town or towns in this commonwealth, and to grant to the inhabitants thereof such powers, privileges, and immunities, not repugnant to the constitution, as the general court shall deem necessary or expedient for the regulation and government thereof, and to prescribe the manner of calling and holding public meetings of the inhabitants in wards, or otherwise, for the election of officers under the constitution, and the manner of returning the votes given at such meetings: *Provided*, That no such government shall be erected or constituted in any town not containing twelve thousand inhabitants, nor unless it be with the consent and on the application of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose: *And provided also*, That all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the general court.

ART. III. Every male citizen of twenty-one years of age and upwards, (except paupers and persons under guardianship,) who shall have resided within the commonwealth one year, and within the town or district in which he may claim a right to vote six calendar months next preceding any election of governor, lieutenant-governor, senators, or representatives, and who shall have paid, by himself or his parent, master, or guardian, any State or county tax which shall, within two years next preceding such election, have been assessed upon him in any town or district of this commonwealth, and also every citizen who shall be by law exempted from taxation, and who shall be in all other respects qualified as above mentioned, shall have a right to vote in such election of governor, lieutenant-governor, senators, and representatives, and no other person shall be entitled to vote in such elections.

ART. IV. Notaries public shall be appointed by the governor, in the same manner as judicial officers are appointed, and shall hold their offices during seven years, unless sooner removed by the governor, with the consent of the council, upon the address of both houses of the legislature.

In case the office of secretary or treasurer of the commonwealth shall become vacant from any cause during the recess of the general court, the governor, with the advice and consent of the council, shall nominate and appoint, under such regulations as may be prescribed by law, a competent and suitable person to such vacant

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* The first nine articles of amendment were framed by a convention which met at Boston November 5, 1820, and completed its labors January 9, 1821. They were submitted to the people, (with five others that were rejected,) and ratified April 9, 1822.

The other articles of amendment were each adopted by the legislature at two successive sessions, and then ratified by the people.

office, who shall hold the same until a successor shall be appointed by the general court.*

Whenever the exigencies of the commonwealth shall require the appointment of a commissary-general, he shall be nominated, appointed, and commissioned in such manner as the legislature may, by law, prescribe.

All officers commissioned to command in the militia may be removed from office in such manner as the legislature may, by law, prescribe.

ART. V. In the election of captains and subalterns of the militia, all the members of their respective companies, as well those under as those above the age of twenty-one years, shall have a right to vote.

ART. VI. Instead of the oath of allegiance prescribed by the constitution, the following oath shall be taken and subscribed by every person chosen or appointed to any office, civil or military, under the government of this commonwealth, before he shall enter on the duties of his office, to wit:

"I, A. B., do solemnly swear that I will bear true faith and allegiance to the commonwealth of Massachusetts, and will support the constitution thereof: So help me God."

Provided, That when any person shall be of the denomination called Quakers, and shall decline taking said oath, he shall make his affirmation in the foregoing form, omitting the word "swear," and inserting instead thereof the word "affirm," and omitting the words "so help me God" and subjoining instead thereof the words "this I do under the pains and penalties of perjury."

ART. VII. No oath, declaration, or subscription, excepting the oath prescribed in the preceding article and the oath of office, shall be required of the governor, lieutenant-governor, councillors, senators, or representatives to qualify them to perform the duties of their respective offices.

ART. VIII. No judge of any court of this commonwealth, (except the court of sessions,) and no person holding any office under the authority of the United States, (postmasters excepted,) shall at the same time hold the office of governor, lieutenant-governor, or councillor, or have a seat in the senate or house of representatives of this commonwealth, and no judge of any court in this commonwealth, (except the court of sessions,) nor the attorney-general, [solicitor-general, county attorney,] clerk of any court, sheriff, treasurer, and receiver-general, register of probate, nor register of deeds shall continue to hold his said office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust by any of the officers aforesaid shall be deemed and taken to be a resignation of his said office; [and judges of the courts of common pleas shall hold no other office under the government of this commonwealth, the office of the justice of the peace and militia offices excepted.]

ART. IX. If, in any time hereafter, any specific and particular amendment or amendments to the constitution be proposed in the general court, and agreed to by a majority of the senators, and two-thirds of the members of the house of representatives present and voting thereon, such proposed amendment or amendments shall be entered on the journals of the two houses, with the yeas and nays taken thereon, and referred to the general court then next to be chosen, and shall be published; and if in the general court then next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, then it shall be the duty of the general court to submit such proposed amendment or amendments to the people, and if they shall be approved and ratified by a majority of the qualified voters voting thereon, at meetings legally warned and holden for that purpose, they shall become part of the constitution of this commonwealth.

RATIFIED 1833.

ART. X. The political year shall begin on the first Wednesday of January, instead of the last Wednesday of May; and the general court shall assemble every

* See Article XVII of the amendments.

year on the said first Wednesday of January, and shall proceed, at that session, to make all the elections, and to do all the other acts, which are by the constitution required to be made and done at the session which has heretofore commenced on the last Wednesday of May. And the general court shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the governor. But nothing herein contained shall prevent the general court from assembling at such other times as they shall judge necessary, or when called together by the governor. The governor, lieutenant-governor, and councillors shall also hold their respective offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their stead.

The meeting for the choice of governor, lieutenant-governor, senators, and representatives, shall be held on the second Monday of November in every year; but meetings may be adjourned, if necessary, for the choice of representatives, to the next day, and again to the next succeeding day, but no further. But in case a second meeting shall be necessary for the choice of representatives, such meetings shall be held on the fourth Monday of the same month of November.*

All the other provisions of the constitution respecting the elections and proceedings of the members of the general court, or of any other officers or persons whatever that have reference to the last Wednesday of May as the commencement of the political year, shall be so far altered as to have like reference to the first Wednesday of January.

This article shall go into operation on the first day of October next following the day when the same shall be duly ratified and adopted as an amendment of the constitution; and the governor, lieutenant-governor, councillors, senators, representatives, and all other State officers, who are annually chosen, and who shall be chosen for the current year, when the same shall go into operation, shall hold their respective offices until the first Wednesday of January then next following, and until others arechosen and qualified in their stead, and no longer; and the first election of the governor, lieutenant-governor, senators, and representatives, to be had in virtue of this article, shall be had conformably thereunto, in the month of November following the day on which the same shall be in force and go into operation, pursuant to the foregoing provision.

All the provisions of the existing constitution inconsistent with the provisions herein contained are hereby wholly annulled.

Art. XI. Instead of the third article of the bill of rights, the following modification and amendment thereof is substituted:

As the public worship of God, and the instructions in piety, religion, and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefore, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses; and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of said society a written notice declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made or entered into by such society; and all religious sects and denominations, demeaning themselves peaceably and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.

RATIFIED 1836.

Art. XII. In order to provide for a representation of the citizens of this commonwealth, founded upon the principles of equality, a census of the ratable polls in each city,

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* See Article XV of the amendments.

town, and district of the commonwealth, on the first day of May, shall be taken and returned into the secretary's office, in such manner as the legislature shall provide, within the month of May, in the year of our Lord one thousand eight hundred and thirty-seven, and in every tenth year thereafter, in the month of May, in manner aforesaid; and each town or city having three hundred ratable polls at the last preceding decennial census of polls may elect one representative, and for every four hundred and fifty ratable polls, in addition to the first three hundred, one representative more.

Any town having less than three hundred ratable polls shall be represented thus: The whole number of ratable polls at the last preceding decennial census of polls shall be multiplied by ten, and the product divided by three hundred; and such town may elect one representative as many years within ten years as three hundred is contained in the product aforesaid.

Any city or town having ratable polls enough to elect one or more representatives, with any number of polls beyond the necessary number, may be represented, as to that surplus number, by multiplying such surplus number by ten, and dividing the product by four hundred and fifty; and such city or town may elect one additional representative as many years, within the ten years, as four hundred and fifty is contained in the product aforesaid.

Any two or more of the several towns and districts may, by consent of a majority of the legal voters present at a legal meeting in each of said towns and districts, respectively, called for that purpose, and held previous to the first day of July in the year in which the decennial census of polls shall be taken, form themselves into a representative district, to continue until the next decennial census of polls, for the election of a representative or representatives; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of ratable polls.

The governor and council shall ascertain and determine, within the months of July and August, in the year of our Lord one thousand eight hundred and thirty-seven, according to the foregoing principles, the number of representatives which each city, town, and representative district is entitled to elect, and the number of years, within the period of ten years then next ensuing, that each city, town, and representative district may elect an additional representative; and where any town has not a sufficient number of polls to elect a representative each year, then, how many years within the ten years such town may elect a representative; and the same shall be done once in ten years thereafter, by the governor and council, and the number of ratable polls in each decennial census of polls shall determine the number of representatives which each city, town, and representative district may elect as aforesaid; and when the number of representatives to be elected by each city, town, or representative district is ascertained and determined as aforesaid, the governor shall cause the same to be published forthwith for the information of the people, and that number shall remain fixed and unalterable for the period of ten years.*

All the provisions of the existing constitution inconsistent with the provisions herein contained are hereby wholly annulled.

RATIFIED 1840.

ART. XIII. A census of the inhabitants of each city and town, on the first day of May, shall be taken and returned into the secretary's office, on or before the last day of June, of the year one thousand eight hundred and forty, and of every tenth year thereafter; which census shall determine the apportionment of senators and representatives for the term of ten years.

The several senatorial districts now existing shall be permanent. The senate shall consist of forty members; and in the year one thousand eight hundred and forty, and every tenth year thereafter, the governor and council shall assign the number of senators to be chosen in each district, according to the number of inhabitants in the same. But, in all cases, at least one senator shall be assigned to each district.

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* See Articles XIII, XVI, XXI, and XXII of the amendments.

The members of the house of representatives shall be apportioned in the following manner: Every town or city containing twelve hundred inhabitants may elect one representative; and two thousand four hundred inhabitants shall be the mean increasing number which shall entitle it to an additional representative.

Every town containing less than twelve hundred inhabitants shall be entitled to elect a representative as many times, within ten years, as the number one hundred and sixty is contained in the number of the inhabitants of said town. Such towns may also elect one representative for the year in which the valuation of estates within the commonwealth shall be settled.

Any two or more of the several towns may, by consent of the majority of the legal voters present at a legal meeting, in each of said towns, respectively, called for that purpose, and held before the first day of August, in the year one thousand eight hundred and forty, and every tenth year thereafter, form themselves into a representative district, to continue for the term of ten years; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same nnmber of inhabitants.

The number of inhabitants which shall entitle a town to elect one representative, and the mean increasing number which shall entitle a town or city to elect more than one, and also the number by which the population of towns, not entitled to a representative every year, is to be divided, shall be increased, respectively, by one-tenth of the numbers above mentioned, whenever the population of the commonwealth shall have increased to seven hundred and seventy thousand, and for every additional increase of seventy thousand inhabitants the same addition of one-tenth shall be made, respectively, to the said numbers above mentioned.

In the year of each decennial census, the governor and council shall, before the first day of September, apportion the number of representatives which each city, town, and representative district is entitled to elect, and ascertain how many years within ten years any town may elect a representative, which is not entitled to elect one every year; and the governor shall cause the same to be published forthwith.

Nine councillors shall be annually chosen from among the people at large, on the first Wednesday of January, or as soon thereafter as may be, by the joint ballot of the senators and representatives, assembled in one room, who shall, as soon as may be, in like manner, fill up any vacancies that may happen in the council, by death, resignation, or otherwise. No person shall be elected a councillor who has not been an inhabitant of this commonwealth for the term of five years immediately preceding his election; and not more than one councillor shall be chosen from any one senatorial district in the commonwealth.*

No possession of a freehold, or of any other estate, shall be required as a qualification for holding a seat in either branch of the general court, or in the executive council.

RATIFIED 1855.

ART. XIV. In all elections of civil officers by the people of this commonwealth, whose election is provided for by the constitution, the person having the highest number of votes shall be deemed and declared to be elected.

ART. XV. The meeting for the choice of governor, lieutenant-governor, senators, and representatives shall be held on the Tuesday next after the first Monday in November, annually; but in case of a failure to elect representatives on that day, a second meeting shall be holden, for that purpose, on the fourth Monday of the same month of November.

ART. XVI. Eight councillors shall be annually chosen by the inhabitants of this commonwealth qualified to vote for governor. The election of councillors shall be determined by the same rule that is required in the election of governor. The legislature, at its first session after this amendment shall have been adopted, and at its first session after the next State census shall have been taken, and at its first session after each decennial State census thereafterwards, shall divide the commonwealth into eight districts of

* See Articles XXI and XXII of the amendments.

contiguous territory, each containing a number of inhabitants as nearly equal as practicable, without dividing any town, or ward of a city, and each entitled to elect one councillor: *Provided, however,* That if, at any time, the constitution shall provide for the division of the commonwealth into forty senatorial districts, then the legislature shall so arrange the councillor districts that each district shall consist of five contiguous senatorial districts, as they shall be, from time to time, established by the legislature. No person shall be eligible to the office of councillor who has not been an inhabitant of the commonwealth for the term of five years immediately preceding his election. The day and manner of the election, the return of the votes, and the declaration of the said elections, shall be the same as are required in the election of governor. Whenever there shall be a failure to elect the full number of councillors, the vacancies shall be filled in the same manner as required for filling vacancies in the senate; and vacancies occasioned by death, removal from the State, or otherwise, shall be filled in like manner, as soon as may be after such vacancies shall have happened. And that there may be no delay in the organization of the government on the first Wednesday of January, the governor, with at least five councillors for the time being, shall, as soon as may be, examine the returned copies of the records for the election of governor, lieutenant-governor, and councillors; and, ten days before the said first Wednesday in January, he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on the said first Wednesday in January, to be by them examined; and in case of the election of either of said officers, the choice shall be by them declared and published; but in case there shall be no election of either of said officers, the legislature shall proceed to fill such vacancies in the manner provided in the constitution for the choice of such officers.

ART. XVII. The secretary, treasurer and receiver-general, auditor, and attorney-general, shall be chosen annually, on the day in November prescribed for the choice of governor; and each person then chosen as such, duly qualified in other respects, shall hold his office for the term of one year from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease, in the mean time, of a person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter, from the two persons who had the highest number of votes for said offices on the day in November aforesaid, by joint ballot of the senators and representatives, in one room; and in case the office of secretary, or treasurer and receiver-general, or auditor, or attorney-general shall become vacant, from any cause, during an annual or special session of the general court, such vacancy shall in like manner be filled by choice from the people at large; but if such vacancy shall occur at any other time, it shall be supplied by the governor by appointment, with the advice and consent of the council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid shall neglect, for the space of ten days after he could otherwise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of said offices unless he shall have been an inhabitant of this commonwealth five years next preceding his election or appointment.

ART. XVIII. All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the State for the support of common schools, shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order of superintendence of the authorities of the town or city in which the money is to be expended; and such moneys shall never be appropriated to any religious sect for the maintenance, exclusively, of its own schools.

ART. XIX. The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, commissioners of insolvency, and clerks of the courts, by the people of the several counties, and that district attorneys shall be chosen by the people of the several districts for such term of office as the legislature shall prescribe.

RATIFIED 1857.

ART. XX. No person shall have the right to vote, or be eligible to office under the constitution of this commonwealth, who shall not be able to read the constitution in the English language, and write his name: *Provided, however*, That the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be sixty years of age or upwards at the time this amendment shall take effect.

ART. XXI. A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city said enumeration shall specify the number of such legal voters aforesaid residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of representatives for the periods between the taking of the census.

The house of representatives shall consist of two hundred and forty members, which shall be apportioned by the legislature, at its first session after the return of each enumeration as aforesaid, to the several counties of the commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth; and it shall be the duty of the secretary of the commonwealth to certify, as soon as may be after it is determined by the legislature, the number of representatives to which each county shall be entitled, to the board authorized to divide each county into representative districts. The mayor and aldermen of the city of Boston, the county commissioners of other counties than Suffolk, or in lieu of the mayor and aldermen of the city of Boston, or of the county commissioners in each county other than Suffolk, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by law, shall, on the first Tuesday of August next after each assignment of representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into representative districts of contiguous territory, so as to apportion the representation assigned to each county equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county; and such districts shall be so formed that no town or ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives. Every representative, for one year at least next preceding his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent such district when he shall cease to be an inhabitant of the commonwealth. The districts in each county shall be numbered by the board creating the same, and a description of each, with the numbers thereof, and the number of legal voters therein, shall be returned by the board to the secretary of the commonwealth, the county treasurer of each county, and to the clerk of every town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of representatives, and of ascertaining their election, shall be prescribed by law. Not less than one hundred members of the house of representatives shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.

ART. XXII. A census of the legal voters of each city and town, on the first day of May, shall be taken, and returned into the office of the secretary of the commonwealth on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and in every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city said enumeration shall specify the number of such legal voters aforesaid residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of senators for the periods between the taking of the census. The senate shall consist of forty members. The general court shall, at its first session after each next preceding special enumeration, divide the commonwealth into forty districts of adjacent territory, each district to contain, as nearly as may be, an equal number of legal voters, according to the enumeration aforesaid: *Provided, however,* That no town, or ward of a city, shall be divided therefor; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties, into one district. Each district shall elect one senator, who shall have been an inhabitant of this commonwealth five years at least immediately preceding his election, and at the time of his election shall be an inhabitant of the district for which he is chosen; and he shall cease to represent such senatorial district when he shall cease to be an inhabitant of the commonwealth. Not less than sixteen senators shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.

RATIFIED 1859.

ART. XXIII. No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this commonwealth: *Provided,* That this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof: *And provided further,* That it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom.*

RATIFIED 1860.

ART. XXIV. Any vacancy in the senate shall be filled by election by the people of the unrepresented district, upon the order of a majority of senators elected.

ART. XXV. In case of a vacancy in the council, from a failure of election or other cause, the senate and house of representatives shall, by concurrent vote, choose some eligible person, from the people of the district wherein such vacancy occurs, to fill that office. If such vacancy shall happen when the legislature is not in session, the governor, with the advice and consent of the council, may fill the same by appointment of some eligible person.

RATIFIED 1863.

ART. XXVI. The twenty-third article of the articles of amendment of the constitution of this commonwealth, which is as follows, to wit: "No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this commonwealth: *Provided,* That this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; *And provided further,* That it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom," is hereby wholly annulled.

* See Article XXVI of the amendments.

MICHIGAN.*

VIRGINIA ACT OF CESSION—1783.

[See "Illinois," pages 427, 428.]

DEED OF CESSION FROM VIRGINIA—1784.

[See "Illinois," page 428.]

THE NORTHWEST TERRITORIAL GOVERNMENT—1787.

[See "Illinois," pages 429–432.]

VIRGINIA ACT OF RATIFICATION—1788.

[See "Illinois," page 433.]

THE NORTHWEST TERRITORIAL GOVERNMENT—1789.

[See "Illinois," page 433.]

THE TERRITORIAL GOVERNMENT OF INDIANA—1800.†

[See "Illinois," pages 434, 435.]

* The French discovered Detroit in 1670, and established a colony there in 1702. This was ceded to Great Britain, with all of the other French possessions east of the Mississippi River, by the treaty of Paris, February 10, 1763, and was annexed by royal proclamation to the British colony of Quebec. It was relinquished to the United States by Great Britain by the treaties of 1782–'83, although a British garrison was maintained until 1796.

† The northern boundary of Indiana, as established by this act, was changed by the act of Congress approved April 30, 1802.

THE TERRITORIAL GOVERNMENT OF MICHIGAN—1805.*

[EIGHTH CONGRESS, SECOND SESSION.]

An Act to divide the Indiana Territory into two separate governments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the thirtieth day of June next, all that part of the Indiana Territory which lies north of a line drawn east from the southerly bend, or extreme, of Lake Michigan, until it shall intersect Lake Erie, and east of a line drawn from the said southerly bend through the middle of said lake to its northern extremity, and thence due north to the northern boundary of the United States, shall, for the purpose of temporary government, constitute a separate Territory, and be called Michigan.

SEC. 3. *And be it further enacted*, That there shall be established within the said Territory a government in all respects similar to that provided by the ordinance of Congress, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the territory northwest of the river Ohio; and by an act passed on the seventh day of August, one thousand seven hundred and eighty-nine, entitled "An act to provide for the government of the territory northwest of the river Ohio;" and the inhabitants thereof shall be entitled to and enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the territory of the United States northwest of the river Ohio by the said ordinance.

SEC. 2. *And be it further enacted*, That the officers of the said Territory, who, by virtue of this act shall be appointed by the President of the United States, by and with the advice and consent of the Senate, shall respectively exercise the same powers, perform the same duties, and receive for their services the same compensations as by the ordinance aforesaid, and the laws of the United States, have been provided and established for similar officers in the Indiana Territory; and the duties and emoluments of superintendent of Indian affairs shall be united with those of governor.

SEC. 4. *And be it further enacted*, That nothing in this act contained shall be construed so as in any manner to affect the government now in force in the Indiana Territory, further than to prohibit the exercise thereof within the said Territory of Michigan, from and after the aforesaid thirtieth day of June next.

SEC. 5. *And be it further enacted*, That all suits, process, and proceeding which, on the thirtieth day of June next, shall be pending in the court of any county which shall be included within the said Territory of Michigan, and also all suits, process, and proceedings which, on the said thirtieth day of June next, shall be pending in the general court of the Indiana Territory in consequence of any writ of removal, or order for trial at bar, and which had been removed from any of the counties included within the limits of the Territory of Michigan aforesaid, shall, in all things concerning the same, be proceeded on, and judgments and decrees rendered thereon, in the same manner as if the said Indiana Territory had remained undivided.

SEC. 6. *And be it further enacted*, That Detroit shall be the seat of government of the said Territory until Congress shall otherwise direct.

APPROVED, January 11, 1805.

* The boundaries of Michigan, as established by this act, were necessarily changed by the acts of Congress approved April 9, 1816; June 18, 1818; June 28, 1834, and April 20, 1836.

The act of 1818 extended the Territory westward to the Mississippi River, and the act of 1834 added the territory between the Mississippi River on the east and the Missouri and White Earth Rivers on the west. Michigan Territory then extended from Lakes Erie and Huron westward to the Missouri River, and from the States of Ohio, Indiana, Illinois, and Missouri northward to the British dominions.

CONSTITUTION OF MICHIGAN—1835.*

In convention, begun at the city of Detroit, on the second Monday of May, in the year one thousand eight hundred and thirty-five:

We, the people of the Territory of Michigan, as established by the act of Congress of the eleventh of January, eighteen hundred and five, in conformity to the fifth article of the ordinance providing for the government of the territory of the United States northwest of the river Ohio, believing that the time has arrived when our present political condition ought to cease, and the right of self-government be asserted; and availing ourselves of that provision of the aforesaid ordinance of the Congress of the United States of the thirteenth day of July, seventeen hundred and eighty-seven, and the acts of Congress passed in accordance therewith, which entitled us to admission into the Union, upon a condition which has been fulfilled, do, by onr delegates in convention assembled, mutually agree to form ourselves into a free and independent State, by the style and title of "The State of Michigan," and do ordain and establish the following constitution for the government of the same:

ARTICLE I.

SECTION 1. All political power is inherent in the people

SEC. 2. Government is instituted for the protection, security, and benefit of the people; and they have the right at all times to alter or reform the same, and to abolish one form of government and establish another, whenever the public good requires it.

SEC. 3. No man or set of men are entitled to exclusive or separate privileges.

SEC. 4. Every person has a right to worship Almighty God according to the dictates of his own conscience; and no person can of right be compelled to attend, erect, or support, against his will, any place of religious worship, or pay any tithes, taxes, or other rates for the support of any minister of the gospel or teacher of religion.

SEC. 5. No money shall be drawn from the treasury for the benefit of religious societies, or theological or religious seminaries.

SEC. 6. The civil and political rights, privileges, and capacities of no individual shall be diminished or enlarged on account of his opinions or belief concerning matters of religion.

SEC. 7. Every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no laws shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

SEC. 8. The person, houses, papers, and possessions of every individual shall be secure from unreasonable searches and seizures; and no warrant to search any place, or to seize any person or things, shall issue without describing them, nor without probable cause, supported by oath or affirmation.

SEC. 9. The right of trial by jury shall remain inviolate.

SEC. 10. In all criminal prosecutions, the accused shall have the right to a speedy and public trial by an impartial jury of the vicinage; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defence; and in all civil cases, in which personal liberty may be involved, the trial by jury shall not be refused.

SEC. 11. No person shall be held to answer for a criminal offence, unless on the

* This constitution was framed by a convention called by the territorial legislative council, which met at Detroit May 11, 1835, and completed its labors June 29, 1835. It was submitted to the people and ratified November 2, 1835. President Jackson laid it before Congress in a special message, December 9, 1835.

presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or militia when in actual service in time of war or public danger.

SEC. 12. No person for the same offence shall be twice put in jeopardy of punishment; all persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 13. Every person has a right to bear arms for the defence of himself and the State.

SEC. 14. The military shall, in all cases and at all times, be in strict subordination to the civil power.

SEC. 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner prescribed by law.

SEC. 16. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; no person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 17. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall be passed.

SEC. 18. Excessive bail shall not be required; excessive fines shall not be imposed; and cruel and unjust punishments shall not be inflicted.

SEC. 19. The property of no person shall be taken for public use, without just compensation therefor.

SEC. 20. The people shall have the right freely to assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

SEC. 21. All acts of the legislature, contrary to this or any other article of this constitution, shall be void.

ARTICLE II.

ELECTORS.

SECTION 1. In all elections, every white male citizen above the age of twenty-one years, having resided in the State six months next preceding any election, shall be entitled to vote at such election; and every white male inhabitant of the age aforesaid, who may be a resident of the State at the time of the signing of this constitution, shall have the right of voting as aforesaid; but no such citizen or inhabitant shall be entitled to vote except in the district, county, or township in which he shall actually reside at the time of such election.

SEC. 2. All votes shall be given by ballot, except for such township officers as may, by law, be directed to be otherwise chosen.

SEC. 3. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

SEC. 4. No elector shall be obliged to do military duty on the days of election, except in time of war or public danger.

SEC. 5. No person shall be deemed to have lost his residence in this State by reason of his absence on business of the United States, or of this State.

SEC. 6. No soldier, seaman, or marine, in the Army or Navy of the United States, shall be deemed a resident of this State in consequence of being stationed in any military or naval place within the same.

ARTICLE III.

DIVISION OF THE POWERS OF GOVERNMENT.

The powers of the government shall be divided into three distinct departments: the legislative, the executive, and the judicial; and one department shall never exercise the powers of another, except in such cases as are expressly provided for in this constitution.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power shall be vested in a senate and house of representatives.

SEC. 2. The number of the members of the house of representatives shall never be less than forty-eight, nor more than one hundred; and the senate shall, at all times, equal in number one-third of the house of representatives, as nearly as may be.

SEC. 3. The legislature shall provide by law for an enumeration of the inhabitants of this State in the years eighteen hundred and thirty-seven and eighteen hundred and forty-five, and every ten years after the said last-mentioned time; and at their first session after each enumeration so made as aforesaid, and also after each enumeration made by the authority of the United States, the legislature shall apportion anew the representatives and senators among the several counties and districts, according to the number of white inhabitants.

SEC. 4. The representatives shall be chosen annually on the first Monday of November, and on the following day, by the electors of the several counties or districts into which the State shall be divided for that purpose. Each organized county shall be entitled to at least one representative; but no county hereafter organized shall be entitled to a separate representative, until it shall have attained a population equal to the ratio of representation hereafter established.

SEC. 5. The senators shall be chosen for two years, at the same time and in the same manner as the representatives are required to be chosen. At the first session of the legislature under this constitution, they shall be divided by lot from their respective districts, as nearly as may be, into two equal classes; the seats of the senators of the first class shall be vacated at the expiration of the first year, and of the second class at the expiration of the second year; so that one-half thereof, as nearly as may be, shall be chosen annually thereafter.

SEC. 6. The State shall be divided, at each new apportionment, into a number of not less than four, nor more than eight, senatorial districts, to be always composed of contiguous territory, so that each district shall elect an equal number of senators annually, as nearly as may be; and no county shall be divided in the formation of such districts.

SEC. 7. Senators and representatives shall be citizens of the United States, and be qualified electors in the respective counties and districts which they represent; and a removal from their respective counties or districts shall be deemed a vacation of their seats.

SEC. 8. No person holding any office under the United States, or of this State, officers of the militia, justices of the peace, associate judges of the circuit and county courts, and postmasters excepted, shall be eligible to either house of the legislature.

SEC. 9. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest, nor shall they be subject to any civil process, during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.

SEC. 10. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house may provide. Each house shall choose its own officers.

SEC. 11. Each house shall determine the rules of its proceedings, and judge of the qualifications, elections, and returns of its own members; and may, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause, nor for any cause known to his constituents antecedent to his election.

SEC. 12. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the request of one-fifth of the members present, be entered on the journal. Any member of either house shall have liberty to

dissent from and protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journal.

SEC. 13. In all elections by either or both houses, the votes shall be given *viva voce;* and all votes on nominations made to the senate shall be taken by yeas and nays, and published with the journals of its proceedings.

SEC. 14. The doors of each house shall be open, except when the public welfare shall require secrecy; neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that where the legislature may then be in session.

SEC. 15. Any bill may originate in either house of the legislature.

SEC. 16. Every bill passed by the legislature shall, before it becomes a law, be presented to the governor; if he approve, he shall sign it; but if not, he shall return it with his objections to that house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of all the members present agree to pass the bill, it shall be sent, with the objections, to the other house, by whom it shall likewise be reconsidered; and if approved also by two-thirds of all the members present in that house, it shall become a law; but in such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house respectively. And if any bill be not returned by the governor within ten days, Sundays excepted, after it has been presented to him, the same shall become a law, in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not become a law.

SEC. 17. Every resolution to which the concurrence of the senate and house of representatives may be necessary, except in cases of adjournment, shall be presented to the governor, and, before the same shall take effect, shall be proceeded upon in the same manner as in the case of a bill.

SEC. 18. The members of the legislature shall receive for their services a compensation to be ascertained by law, and paid out of the public treasury; but no increase of the compensation shall take effect during the term for which the members of either house shall have been elected; and such compensation shall never exceed three dollars a day.

SEC. 19. No member of the legislature shall receive any civil appointment from the governor and senate, or from the legislature, during the term for which he is elected.

SEC. 20. The governor shall issue writs of election to fill such vacancies as may occur in the senate and house of representatives.

SEC. 21. The legislature shall meet on the first Monday in January in every year, and at no other period, unless otherwise directed by law, or provided for in this constitution.

SEC. 22. The style of the laws of this State shall be, "*Be it enacted by the senate and house of representatives of the State of Michigan.*"

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power shall be vested in a governor, who shall hold his office for two years; and a lieutenant-governor shall be chosen at the same time and for the same term.

SEC. 2. No person shall be eligible to the office of governor or lieutenant-governor, who shall not have been five years a citizen of the United States, and a resident of this State two years next preceding the election.

SEC. 3. The governor and lieutenant-governor shall be elected by the electors at the times and places of choosing members of the legislature. The persons having the highest number of votes for governor and lieutenant-governor shall be elected; but in case two or more have an equal and the highest number of votes for governor

or lieutenant-governor, the legislature shall, by joint vote, choose one of the said persons, so having an equal and the highest number of votes, for governor or lieutenant-governor.

SEC. 4. The returns of every election for governor and lieutenant-governor shall be sealed up and transmitted to the seat of government, by the returning-officers, directed to the president of the senate, who shall open and publish them in the presence of the members of both houses.

SEC. 5. The governor shall be commander-in-chief of the militia, and of the army and navy of this State.

SEC. 6. He shall transact all executive business with the officers of government, civil and military; and may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 7. He shall take care that the laws be faithfully executed.

SEC. 8. He shall have power to convene the legislature on extraordinary occasions. He shall communicate, by message, to the legislature, at every session, the condition of the State, and recommend such matters to them as he shall deem expedient.

SEC. 9. He shall have power to adjourn the legislature to such time as he may think proper, in case of a disagreement between the two houses with respect to the time of adjournment, but not to a period beyond the next annual meeting.

SEC. 10. He may direct the legislature to meet at some other place than the seat of government, if that shall become, after its adjournment, dangerous from a common enemy or a contagious disease.

SEC. 11. He shall have power to grant reprieves and pardons after conviction, except in cases of impeachment.

SEC. 12. When any office, the appointment to which is vested in the governor and senate, or in the legislature, becomes vacant during the recess of the legislature, the governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the succeeding session of the legislature.

SEC. 13. In case of the impeachment of the governor, his removal from office, death, resignation, or absence from the State, the powers and duties of the office shall devolve upon the lieutenant-governor until such disability shall cease, or the vacancy be filled.

SEC. 14. If, during the vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or be absent from the State, the president of the senate *pro tempore* shall act as governor until the vacancy be filled.

SEC. 15. The lieutenant-governor shall, by virtue of his office, be president of the senate; in committee of the whole, he may debate on all questions; and, when there is an equal division, he shall give the casting vote.

SEC. 16. No member of Congress, nor any other person holding office under the United States, or this State, shall execute the office of governor.

SEC. 17. Whenever the office of governor or lieutenant-governor becomes vacant, the person exercising the powers of governor for the time being shall give notice thereof, and the electors shall, at the next succeeding annual election for members of the legislature, choose a person to fill such vacancy.

SEC. 18. The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he has been elected.

SEC. 19. The lieutenant-governor, except when acting as governor, and the president of the senate *pro tempore*, shall each receive the same compensation as shall be allowed to the speaker of the house of representatives.

SEC. 20. A great seal for the State shall be provided by the governor, which shall contain the device and inscriptions represented and described in the papers relating thereto, signed by the president of the convention, and deposited in the office of the secretary of the territory. It shall be kept by the secretary of state; and all official acts of the governor, his approbation of the laws excepted, shall be thereby authenticated.

SEC. 21. All grants and commissions shall be in the name and by the authority of the people of the State of Michigan.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power shall be vested in one supreme court, and in such other courts as the legislature may from time to time establish.

SEC. 2. The judges of the supreme court shall hold their offices for the term of seven years; they shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. They shall receive an adequate compensation, which shall not be diminished during their continuance in office. But they shall receive no fees nor perquisites of office, nor hold any other office of profit or trust under the authority of this State, or of the United States.

SEC. 3. A court of probate shall be established in each of the organized counties.

SEC. 4. Judges of all county courts, associate judges of circuit courts, and judges of probate shall be elected by the qualified electors of the county in which they reside, and shall hold their offices for four years.

SEC. 5. The supreme court shall appoint their clerk or clerks; and the electors of each county shall elect a clerk, to be denominated a county clerk, who shall hold his office for the term of two years, and shall perform the duties of clerk to all the courts of record to be held in each county, except the supreme court and court of probate.

SEC. 6. Each township may elect four justices of the peace, who shall hold their offices for four years; and whose powers and duties shall be defined and regulated by law. At their first election they shall be classed and divided by lot into numbers one, two, three, and four, to be determined in such manner as shall be prescribed by law, so that one justice shall be annually elected in each township thereafter. A removal of any justice from the township in which he was elected shall vacate his office. In all incorporated towns, or cities, it shall be competent for the legislature to increase the number of justices.

SEC. 7. The style of all process shall be, "In the name of the people of the State of Michigan;" and all indictments shall conclude, "Against the peace and dignity of the same."

ARTICLE VII.

CERTAIN STATE AND COUNTY OFFICERS.

SECTION 1. There shall be a secretary of state, who shall hold his office for two years, and who shall be appointed by the governor, by and with the advice and consent of the senate. He shall keep a fair record of the official acts of the legislative and executive departments of the government; and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature; and shall perform such other duties as shall be assigned him by law.

SEC. 2. A State treasurer shall be appointed by a joint vote of the two houses of the legislature, and shall hold his office for the term of two years.

SEC. 3. There shall be an auditor-general and an attorney-general for the State, and a prosecuting attorney for each of the respective counties, who shall hold their offices for two years, and who shall be appointed by the governor, by and with the advice and consent of the senate, and whose powers and duties shall be prescribed by law.

SEC. 4. There shall be a sheriff, a county treasurer, and one or more coroners, a register of deeds, and a county surveyor, chosen by the electors in each of the several counties, once in every two years, and as often as vacancies shall happen. The sheriff shall hold no other office, and shall not be capable of holding the office of sheriff longer than four in any term of six years. He may be required by law to renew his security from time to time, and in default of giving such security, his office shall be deemed vacant; but the county shall never be made responsible for the acts of the sheriff.

ARTICLE VIII.

IMPEACHMENTS AND REMOVALS FROM OFFICE.

SECTION 1. The house of representatives shall have the sole power of impeaching all civil officers of the State for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall be necessary to direct an impeachment.

SEC. 2. All impeachments shall be tried by the senate. When the governor or lieutenant-governor shall be tried, the chief justice of the supreme court shall preside. Before the trial of an impeachment, the members of the court shall take an oath or affirmation truly and impartially to try and determine the charge in question according to the evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment, shall not extend further than to removal from office; but the party convicted shall be liable to indictment and punishment according to law.

SEC. 3. For any reasonable cause, which shall not be sufficient ground for the impeachment of the judges of any of the courts, the governor shall remove any of them on the address of two-thirds of each branch of the legislature; but the cause or causes for which such removal may be required shall be stated at length in the address.

SEC. 4. The legislature shall provide by law for the removal of justices of the peace, and other county and township officers, in such manner and for such cause as to them shall seem just and proper.

ARTICLE IX.

MILITIA.

SECTION 1. The legislature shall provide by law for organizing and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States.

SEC. 2. The legislature shall provide for the efficient discipline of the officers, commissioned and non-commissioned, and musicians, and may provide by law for the organization and discipline of volunteer companies.

SEC. 3. Officers of the militia shall be elected or appointed in such manner as the legislature shall from time to time direct, and shall be commissioned by the governor.

SEC. 4. The governor shall have power to call forth the militia, to execute the laws of the State, to suppress insurrections, and repel invasions.

ARTICLE X.

EDUCATION.

SECTION 1. The governor shall nominate and, by and with the advice and consent of the legislature in joint vote, shall appoint a superintendent of public instruction, who shall hold his office for two years, and whose duties shall be prescribed by law.

SEC. 2. The legislature shall encourage, by all suitable means, the promotion of intellectual, scientifical, and agricultural improvement. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, for the support of schools, which shall hereafter be sold or disposed of, shall be and remain a perpetual fund, the interest of which, together with the rents of all such unsold lands, shall be inviolably appropriated to the support of schools throughout the State.

SEC. 3. The legislature shall provide for a system of common schools, by which a school shall be kept up and supported in each school-district at least three months in every year; and any school-district neglecting to keep up and support such a school may be deprived of its equal proportion of the interest of the public fund.

SEC. 4. As soon as the circumstances of the State will permit, the legislature shall provide for the establishment of libraries; one at least in each township; and the money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines assessed in the several counties for any breach of the penal laws, shall be exclusively applied to the support of said libraries.

SEC. 5. The legislature shall take measures for the protection, improvement, or other disposition of such lands as have been or may hereafter be reserved or granted by the United States to this State for the support of a university, and the funds accruing from the rents or sale of such lands, or from any other source, for the purpose aforesaid, shall be and remain a permanent fund for the support of said university, with such branches as the public convenience may hereafter demand for the promotion of literature, the arts and sciences, and as may be authorized by the terms of such grant. And it shall be the duty of the legislature, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

ARTICLE XI.

PROHIBITION OF SLAVERY.

Neither slavery nor involuntary servitude shall ever be introduced into this State, except for the punishment of crimes of which the party shall have been duly convicted.

ARTICLE XII.

MISCELLANEOUS PROVISIONS.

SECTION 1. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United States and the constitution of this State, and that I will faithfully discharge the duties of the office of ———, according to the best of my ability." And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

SEC. 2. The legislature shall pass no act of incorporation, unless with the assent of at least two-thirds of each house.

SEC. 3. Internal improvement shall be encouraged by the government of this State; and it shall be the duty of the legislature, as soon as may be, to make provision by law for ascertaining the proper objects of improvement in relation to roads, canals, and navigable waters; and it shall also be their duty to provide by law for an equal, systematic, and economical application of the funds which may be appropriated to these objects.

SEC. 4. No money shall be drawn from the treasury but in consequence of appropriations made by law; and an accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws annually.

SEC. 5. Divorces shall not be granted by the legislature, but the legislature may by law authorize the higher courts to grant them, under such restrictions as they may deem expedient.

SEC. 6. No lottery shall be authorized by this State, nor shall the sale of lottery-tickets be allowed.

SEC. 7. No county now organized by law shall ever be reduced, by the organization of new counties, to less than four hundred square miles.

SEC. 8. The governor, secretary of state, treasurer, and auditor-general shall keep their offices at the seat of government.

SEC. 9. The seat of government for this State shall be at Detroit, or at such other place or places as may be prescribed by law, until the year eighteen hundred and forty-seven, when it shall be permanently located by the legislature.

SEC. 10. The first governor and lieutenant-governor shall hold their offices until the first Monday of January, eighteen hundred and thirty-eight, and until others shall be elected and qualified, and thereafter they shall hold their offices for two years, and until their successors shall be elected and qualified.

SEC. 11. When a vacancy shall happen, occasioned by the death, resignation, or removal from office of any person holding office under this State, the successor thereto shall hold his office for the period which his predecessor had to serve, and no longer, unless again chosen or reappointed.

ARTICLE XIII.

MODE OF AMENDING AND REVISING THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen, and shall be published for three months previous to the time of making such choice. And if in the legislature next chosen as aforesaid such proposed amendment or amendments shall be agreed to by two-thirds of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the legislature voting thereon, such amendment or amendments shall become part of the constitution.

SEC. 2. And if at any time two-thirds of the senate and house of representatives shall think it necessary to revise or change this entire constitution, they shall recommend to the electors at the next election for members of the legislature to vote for or against a convention; and if it shall appear that a majority of the electors voting at such election have voted in favor of calling a convention, the legislature shall at its next session provide by law for calling a convention to be holden within six months after the passage of such law; and such convention shall consist of a number of members not less than that of both branches of the legislature.

SCHEDULE.

SECTION. 1. That no inconvenience may arise from a change of the territorial government to a permanent State government, it is declared that all writs, actions, prosecutions, contracts, claims, and rights of individuals and of bodies-corporate shall continue as if no change had taken place in this government; and all process which may, before the organization of the judicial department under this constitution, be issued under the authority of the Territory of Michigan, shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Michigan, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the legislature.

SEC. 3. All fines, penalties, forfeitures, and escheats accruing to the Territory of Michigan shall accrue to the use of the State.

SEC. 4. All recognizances heretofore taken, or which may be taken before the organization of the judicial department under this constitution, shall remain valid, and shall pass over to and may be prosecuted in the name of the State. And all bonds executed to the governor of this Territory, or to any other officer in his official capacity, shall pass over to the governor or other proper State authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly. All criminal prosecutions and penal actions which have arisen or which may arise before the organization of the judicial department under this constitution, and which shall then be depending, may be prosecuted to judgment and execution in the name of the State.

SEC. 5. All officers, civil and military, now holding their offices and appointments in this Territory under the authority of the United States, or under the authority of this Territory, shall continue to hold and exercise their respective offices and appointments until superseded under this constitution.

SEC. 6. The first election for governor, lieutenant-governor, members of the State legislature, and a Representative in the Congress of the United States, shall be held on the first Monday in October next, and on the succeeding day. And the president of the convention shall issue writs to the sheriffs of the several counties or districts, or, in case of vacancy, to the coroners, requiring them to cause such election

to be held on the days aforesaid, in their respective counties or districts. The election shall be conducted in the manner prescribed, and by the township officers designated as inspectors of elections, and the returns made as required by the existing laws of the Territory, or by this constitution: *Provided, however*, That the returns of the several townships in the district composed of the unorganized counties of Ottawa, Ionia, Kent, and Clinton shall be made to the clerk of the township of Kent in said district, and the said township clerk shall perform the same duties as by the existing laws of the Territory devolve upon the clerks of the several counties in similar cases.

SEC. 7. The first meeting of the legislature shall be at the city of Detroit, on the first Monday in November next, with power to adjourn to any other place.

SEC. 8. All county and township officers shall continue to hold their respective offices, unless removed by the competent authority, until the legislature shall, in conformity to the provisions of this constitution, provide for the holding of elections to fill such offices respectively.

SEC. 9. This constitution shall be submitted, at the election to be held on the first Monday in October next, and on the succeeding day, for ratification or rejection, to the electors qualified by this constitution to vote at all elections; and if the same be ratified by the said electors, the same shall become the constitution of the State of Michigan. At the election aforesaid, on such of the ballots as are for the said constitution, shall be written or printed the word "Yes," and on those which are against the ratification of said constitution, the word "No." And the returns of the votes on the question of ratification or rejection of said constitution shall be made to the president of this convention at any time before the first Monday in November next, and a digest of the same communicated by him to the senate and house of representatives on that day.

SEC. 10. And if this constitution shall be ratified by the people of Michigan, the president of this convention shall, immediately after the same shall be ascertained, cause a fair copy thereof, together with an authenticated copy of the act of the legislative council, entitled "An act to enable the people of Michigan to form a constitution and State government, approved January 26, 1835, providing for the calling of this convention, and also a copy of so much of the last census of this Territory as exhibits the number of the free inhabitants of that part thereof which is comprised within the limits in said constitution defined as the boundaries of the proposed State of Michigan, to be forwarded to the President of the United States, together with an expression of the decided opinion of this convention that the number of the free inhabitants of said proposed State now exceeds the number requisite to constitute two congressional districts, and the respectful request of this convention, in behalf of the people of Michigan, that all said matters may be by him laid before the Congress of the United States at their next session.

SEC. 11. In case of the failure of the president of this convention to perform the duties prescribed by this constitution, by reason of his absence, death, or from any other cause, said duties shall be performed by the secretaries of this convention.

SEC. 12. Until the first enumeration shall be made, as directed by this constitution, the county of Wayne shall be entitled to eight representatives; the county of Monroe to four representatives; the county of Washtenaw to seven representatives; the county of Saint Clair to one representative; the county of Saint Joseph to two representatives; the county of Berrien to one representative; the county of Calhoun to one representative; the county of Jackson to one representative; the county of Cass to two representatives; the county of Oakland to six representatives; the county of Macomb to three representatives; the county of Lenawee to four representatives; the county of Kalamazoo, and the unorganized counties of Allegan and Barry, to two representatives; the county of Branch to one representative; the county of Hillsdale to one representative; the county of Lapeer to one representative; the county of Saginaw, and the unorganized counties of Genesee and Shiawasse, to one representative; the county of Michilimackinac to one representative; the county of Chippewa to one representative; and the unorganized counties of Ottawa, Kent, Ionia, and Clinton to one representative.

And for the election of senators the State shall be divided into five districts, and the apportionment shall be as follows: The county of Wayne shall compose the first district, and elect three senators; the counties of Monroe and Lenawee shall compose the second district, and elect three senators; the counties of Hillsdale, Branch, Saint Joseph, Cass, Berrien, Kalamazoo, and Calhoun shall compose the third district, and elect three senators; the counties of Washtenaw and Jackson shall compose the fourth district, and elect three senators; and the counties of Oakland, Lapeer, Saginaw, Macomb, Saint Clair, Michilimackinac, and Chippewa shall compose the fifth district, and elect four senators.

Any country attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming part of such county, so far as regards elections for the purpose of representation in the legislature.

JOHN BIDDLE, *President.*

ORDINANCE.

Be it ordained by the convention assembled to form a constitution for the State of Michigan, in behalf and by authority of the people of said State, That the following propositions be submitted to the Congress of the United States, which, if assented to by that body, shall be obligatory on this State:

1. Section numbered sixteen in every surveyed township of the public lands, and, where such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State for the use of schools.

2. The seventy-two sections of land set apart and reserved for the use and support of a university, by an act of Congress approved on the twentieth day of May, eighteen hundred and twenty-six, entitled "An act concerning a seminary of learning in the Territory of Michigan," shall, together with such further quantities as may be agreed upon by Congress, be conveyed to the State, and shall be appropriated solely to the use and support of such university, in such manner as the legislature may prescribe.

3. Four entire sections of land, to be selected under the direction of the legislature, from any of the unappropriated lands belonging to the United States, shall be granted to the State for its use in establishing a seat of government.

AMENDMENT TO THE CONSTITUTION OF 1835.

RATIFIED 1839.

ART. II. SEC. 1. Strike out the words "district, county, or township," and substitute in the place thereof "township or ward."

RATIFIED 1843.

That the constitution of this State be so amended that every law authorizing the borrowing of money or the issuing of State stocks, whereby a debt shall be created on the credit of the State, shall specify the object for which the money shall be appropriated; and that every such law shall embrace no more than one such object, which shall be simply and specifically stated, and that no such law shall take effect until it shall be submitted to the people at the next general election, and be approved by a majority of the votes cast for and against it at such election; that all money to be raised by the authority of such law be applied to the specific object stated in such law, and to no other purpose, except the payment of such debt thereby created. This provision shall not extend or apply to any law to raise money for defraying the actual expenses of the legislature, the judicial and State officers, for suppressing insurrection, repelling invasion, or defending the State in time of war.

RATIFIED 1844.

ART. IV. SEC. 4. Strike out the words "On the first Monday in November and on the following days," and insert the words "On the first Tuesday," so that said section will read: "The representatives shall be chosen annually on the first Tuesday of November, by the electors of the several counties or districts into which the State shall be divided for that purpose."

ENABLING ACT FOR MICHIGAN—1836.

[TWENTY-FOURTH CONGRESS, FIRST SESSION.]

An Act to establish the northern boundary-line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union upon the conditions therein expressed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the northern boundary-line of the State of Ohio shall be established at, and shall be a direct line drawn from the southern extremity of Lake Michigan to the most northerly cape of the Maumee (Miami) Bay, after that line, so drawn, shall intersect the eastern boundary-line of the State of Indiana; and from the said north cape of the said bay, northeast to the boundary-line between the United States and the province of Upper Canada, in Lake Erie; and thence with the said last-mentioned line, to its intersection with the western line of the State of Pennsylvania.

SEC. 2. *And be it further enacted,* That the constitution and State government which the people of Michigan have formed for themselves be, and the same is hereby, accepted, ratified, and confirmed; and that the said State of Michigan shall be, and is hereby, declared to be one of the United States of America, and is hereby admitted into the Union upon an equal footing with the original States, in all respects whatsoever: *Provided always, and this admission is upon the express condition,* That the said State shall consist of and have jurisdiction over all the territory included within the following boundaries, and over none other, to wit: Beginning at the point where the above-described northern boundary of the State of Ohio intersects the eastern boundary of the State of Indiana, and running thence with the said boundary-line of Ohio, as described in the first section of this act, until it intersects the boundary-line between the United States and Canada, in Lake Erie; thence with the said boundary-line between the United States and Canada, through the Detroit River, Lake Huron, and Lake Superior, to a point where the said line last touches Lake Superior; thence, in a direct line through Lake Superior, to the mouth of the Montreal River; thence, through the middle of the main channel of the said river Montreal, to the middle of the Lake of the Desert; thence, in a direct line, to the nearest headwater of the Menomonee River; thence, through the middle of that fork of the said river first touched by the said line, to the main channel of the said Menomonee River; thence, down the centre of the main channel of the same, to the centre of the most usual ship-channel of the Green Bay of Lake Michigan; thence, through the centre of the most usual ship-channel of the said bay, to the middle of Lake Michigan; thence, through the middle of Lake Michigan, to the northern boundary of the State of Indiana, as that line was established by the act of Congress of the nineteenth of April, eighteen hundred and sixteen; thence due east with the north boundary-line of the said State of Indiana to the northeast corner thereof; and thence south, with the east boundary line of Indiana, to the place of beginning.

SEC. 3. *And be it further enacted,* That as a compliance with the fundamental condition of admission contained in the last preceding section of this act, the boundaries of the said State of Michigan, as in that section described, declared, and established, shall receive the assent of a convention of delegates elected by the people of said State for the sole purpose of giving the assent herein required; and, as soon as the assent herein required shall be given, the President of the United States shall announce the same by proclamation; and, thereupon, and without any further proceeding on the part of Congress, the admission of the said State into the Union, as one of the United States of America, on an equal footing with the original States in all respects whatever, shall be considered as complete, and the Senators and Representatives who have been elected by the said State as its representatives in the Congress of the United States shall be entitled to take their seats in the Senate and House of Representatives, respectively, without further delay.

SEC. 4. *And be it further enacted,* That nothing in this act contained, or in the

admission of the said State into the Union as one of the United States of America, upon an equal footing with the original States in all respects whatever, shall be so construed or understood as to confer upon the people, legislature, or other authorities of the said State of Michigan any authority or right to interfere with the sale by the United States, and under their authority, of the vacant and unsold lands within the limits of the said State; but that the subject of the public lands, and the interests which may be given to the said State therein, shall be regulated by future action between Congress, on the part of the United States, and the said State, or the authorities thereof. And the said State of Michigan shall in no case, and under no pretence whatsoever, impose any tax, assessment, or imposition of any description upon any of the lands of the United States within its limits.

APPROVED, June 15, 1836.

ACT FOR THE ADMISSION OF MICHIGAN—1837.*

[TWENTY-FOURTH CONGRESS, SECOND SESSION.]

An Act to admit the State of Michigan into the Union upon an equal footing with the original States.

Whereas, in pursuance of the act of Congress of June the fifteenth, eighteen hundred and thirty-six, entitled "An act to establish the northern boundary of the State of Ohio, and to provide for the admission of the State of Michigan into the Union, upon the conditions therein expressed," a convention of delegates, elected by the people of the said State of Michigan, for the sole purpose of giving their assent to the boundaries of the said State of Michigan, as described, declared, and established in and by the said act, did, on the fifteenth of December, eighteen hundred and thirty-six, assent to the provisions of the said act: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Michigan shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

SEC. 2. *And be it further enacted,* That the Secretary of the Treasury, in carrying into effect the thirteenth and fourteenth sections of the act of the twenty-third of June, eighteen hundred and thirty-six, entitled "An act to regulate the deposits of the public money," shall consider the State of Michigan as being one of the United States.

APPROVED, January 26, 1837.

CONSTITUTION OF MICHIGAN—1850.†

The People of the State of Michigan do ordain this Constitution.

ARTICLE I.

BOUNDARIES.

The State of Michigan consists of and has jurisdiction over the territory embraced within the following boundaries, to wit: Commencing at a point on the eastern boundary-line of the State of Indiana, where a direct line drawn from the southern extremity of Lake Michigan to the most northerly cape of the Maumee Bay shall intersect the same, said point being the northwest corner of the State of Ohio, as established by act of Congress, entitled "An act to establish the northern boundary-

* The conditions imposed by the act of Congress approved June 15, 1836, were rejected by a convention which met at Ann Arbor September 28, 1836, but were accepted by a second convention which assembled at Ann Arbor December 15, 1836.

† This constitution was framed by a convention which met at Lansing June 3, 1850, and completed its labors August 15, 1850. It was ratified by a vote of 36,169 against 9,433.



line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union upon the conditions therein expressed," approved June fifteenth, one thousand eight hundred and thirty-six; thence with the said boundary-line of the State of Ohio till it intersects the boundary-line between the United States and Canada in Lake Erie; thence with said boundary-line between the United States and Canada through the Detroit River, Lake Huron, and Lake Superior, to a point where the said line last touches Lake Superior; thence in a direct line through Lake Superior to the mouth of the Montreal River; thence through the middle of the main channel of the said river Montreal to the headwaters thereof; thence in a direct line to the centre of the channel between Middle and South Islands in the Lake of the Desert; thence in a direct line to the southern shore of Lake Brule; thence along said southern shore and down the river Brule to the main channel of the Menomonee River; thence down the centre of the main channel of the same to the centre of the most usual ship-channel of the Green Bay of Lake Michigan; thence through the centre of the most usual ship-channel of the said bay to the middle of Lake Michigan; thence through the middle of Lake Michigan to the northern boundary of the State of Indiana, as that line was established by the act of Congress of the nineteenth of April, eighteen hundred and sixteen; thence due east with the north boundary-line of the said State of Indiana to the northeast corner thereof; and thence south with the eastern boundary-line of Indiana to the place of beginning.

ARTICLE II.

SEAT OF GOVERNMENT.

SECTION 1. The seat of government shall be at Lansing, where it is now established.

ARTICLE III.

DIVISION OF THE POWERS OF GOVERNMENT.

SECTION 1. The powers of government are divided into three departments—the legislative, executive, and judicial.

SEC. 2. No person belonging to one department shall exercise the powers properly belonging to another, except in the cases expressly provided in this constitution.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power is vested in a senate and house of representatives.

SEC. 2. The senate shall consist of thirty-two members. Senators shall be elected for two years, and by single districts. Such districts shall be numbered from one to thirty-two inclusive; each of which shall choose one senator. No county shall be divided in the formation of senate districts, except such county shall be equitably entitled to two or more senators.

SEC. 3. The house of representatives shall consist of not less than sixty-four nor more than one hundred members. Representatives shall be chosen for two years, and by single districts. Each representative district shall contain, as nearly as may be, an equal number of white inhabitants, and civilized persons of Indian descent, not members of any tribe, and shall consist of convenient and contiguous territory. But no township or city shall be divided in the formation of a representative district. When any township or city shall contain a population which entitles it to more than one representative, then such township or city shall elect by general ticket the number of representatives to which it is entitled. Each county hereafter organized, with such territory as may be attached thereto, shall be entitled to a separate representative when it has attained a population equal to a moiety of the ratio of representation. In every county entitled to more than one representative, the board of supervisors shall assemble at such time and place as the legislature shall prescribe, and divide the same into representative districts, equal to the number of representatives

to which such county is entitled by law, and shall cause to be filed in the offices of the secretary of state and clerk of such county a description of such representative districts, specifying the number of each district, and the population thereof, according to the last preceding enumeration.*

SEC. 4. The legislature shall provide by law for an enumeration of the inhabitants in the year eighteen hundred and fifty-four, and every ten years thereafter; and at the first session after each enumeration so made, and also at the first session after each enumeration by the authority of the United States, the legislature shall rearrange the senate districts, and apportion anew the representatives among the counties and districts, according to the number of white inhabitants and civilized persons of Indian descent, not members of any tribe. Each apportionment and the division into representative districts, by any board of supervisors, shall remain unaltered until the return of another enumeration.†

SEC. 5. Senators and representatives shall be citizens of the United States, and qualified electors in the respective counties and districts which they represent. A removal from their respective counties or districts shall be deemed a vacation of their office.

SEC. 6. No person holding any office under the United States, or any county office, except notaries public, officers of the militia, and officers elected by townships, shall be eligible to or have a seat in either house of the legislature, and all votes given for any such person shall be void.

SEC. 7. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest. They shall not be subject to any civil process during the session of the legislature, or for fifteen days next before the commencement and after the termination of each session. They shall not be questioned in any other place for any speech in either house.

SEC. 8. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to-day, and compel the attendance of absent members, in such manner and under such penalties as each house may prescribe.

SEC. 9. Each house shall choose its own officers, determine the rules of its proceedings, and judge of the qualifications, elections, and return of its members; and may, with the concurrence of two-thirds of all the members elected, expel a member. No member shall be expelled a second time for the same cause, nor for any cause known to his constituents antecedent to his election. The reason for such expulsion shall be entered upon the journal, with the names of the members voting on the question.

SEC. 10. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The yeas and nays of the members of either house on any question shall be entered on the journal at the request of one-fifth of the members elected. Any member of either house may dissent from and protest against any act, proceeding, or resolution which he may deem injurious to any person or the public, and have the reason of his dissent entered on the journal.

SEC. 11. In all elections by either house or in joint convention, the votes shall be given *viva voce*. All votes on nominations to the senate shall be taken by yeas and nays, and published with the journal of its proceedings.

SEC. 12. The doors of each house shall be open, unless the public welfare require secrecy. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than where the legislature may then be in session.

SEC. 13. Bills may originate in either house of the legislature.

SEC. 14. Every bill and concurrent resolution, except of adjournment, passed by the legislature, shall be presented to the governor before it becomes a law. If he approve he shall sign it, but if not he shall return it, with his objections, to the house in which it originated, which shall enter the objections at large upon their journal and reconsider it. On such reconsideration, if two-thirds of the members elected agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall be reconsidered. If approved by two-thirds of the members elected to that

* Amended; see page 1018. † Amended; see page 1018.

house, it shall become a law. In such case the vote of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journals of each house respectively. If any bill be not returned by the governor within ten days, Sundays excepted, after it has been presented to him, the same shall become a law, in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not become a law. The governor may approve, sign, and file in the office of the secretary of state, within five days after the adjournment of the legislature, any act passed during the last five days of the session, and the same shall become a law.

SEC. 15. The compensation of the members of the legislature shall be three dollars a day for actual attendance, and when absent on account of sickness, for the first sixty days of the session of the year one thousand eight hundred and fifty-one, and for the first forty days of every subsequent session, and nothing thereafter. When convened in extra session, their compensation shall be three dollars a day for the first twenty days, and nothing thereafter, and they shall legislate on no other subjects than those expressly stated in the governor's proclamation, or submitted to them by special message. They shall be entitled to ten cents, and no more, for every mile actually travelled in going to and returning from the place of meeting, on the usually travelled route, and for stationery and newspapers, not exceeding five dollars for each member during any session. Each member shall be entitled to one copy of the laws, journals, and documents of the legislature of which he was a member; but shall not receive, at the expense of the State, books, newspapers, or other perquisites of office, not expressly authorized by this constitution.*

SEC. 16. The legislature may provide by law for the payment of postage on all mailable matter received by its members and officers during the sessions of the legislature, but not on any sent or mailed by them.

SEC. 17. The president of the senate and the speaker of the house of representatives shall be entitled to the same per-diem compensation and mileage as members of the legislature, and no more.

SEC. 18. No person elected a member of the legislature shall receive any civil appointment within this State, or to the Senate of the United States, from the governor, the governor and senate, from the legislature, or any other State authority, during the term for which he is elected. All such appointments, and all votes given for any person so elected for any such office or appointment, shall be void. No member of the legislature shall be interested, directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the time for which he is elected, nor for one year thereafter.

SEC. 19. Every bill and joint resolution shall be read three times in each house before the final passage thereof. No bill or joint resolution shall become a law without the concurrence of a majority of all the members elected to each house. On the final passage of all bills, the vote shall be by ayes and nays, and entered on the journal.

SEC. 20. No law shall embrace more than one object, which shall be expressed in its title. No public act shall take effect or be in force until the expiration of ninety days from the end of the session at which the same is passed, unless the legislature shall otherwise direct, by a two-thirds vote of the members elected to each house.

SEC. 21. The legislature shall not grant nor authorize extra compensation to any public officer, agent, or contractor, after the service has been rendered or the contract entered into.

SEC. 22. The legislature shall provide by law that the furnishing of fuel and stationery for the use of the State, the printing and binding the laws and journals, all blanks, paper, and printing for the executive departments, and all other printing ordered by the legislature, shall be let by contract to the lowest bidder or bidders, who shall give adequate and satisfactory security for the performance thereof. The legislature shall prescribe by law the manner in which the State printing shall be executed, and the accounts rendered therefor; and shall prohibit all charges for constructive labor.

* Amended; see page 1016.

They shall not rescind nor alter such contract, nor release the person nor persons taking the same, or his or their sureties, from the performance of any of the conditions of the contract. No member of the legislature, nor officer of the State, shall be interested, directly or indirectly, in any such contract.

SEC. 23. The legislature shall not authorize, by private or special law, the sale or conveyance of any real estate belonging to any person; nor vacate nor alter any road laid out by commissioners of highways, or any street in any city or village, or in any recorded town-plat.

SEC. 24. The legislature may authorize the employment of a chaplain for the State prison; but no money shall be appropriated for the payment of any religious services in either house of the legislature.

SEC. 25. No law shall be revised, altered, or amended by reference to its title only; but the act revised, and the section or sections of the act altered or amended, shall be reënacted and published at length.

SEC. 26. Divorces shall not be granted by the legislature.

SEC. 27. The legislature shall not authorize any lottery, nor permit the sale of lottery-tickets.

SEC. 28. No new bill shall be introduced into either house during the last three days of the session, without the unanimous consent of the house in which it originates.*

SEC. 29. In case of a contested election, the person only shall receive from the State per-diem compensation and mileage who is declared to be entitled to a seat by the house in which the contest takes place.

SEC. 30. No collector, holder, nor disburser of public moneys shall have a seat in the legislature, or be eligible to any office of trust or profit under this State, until he shall have accounted for and paid over, as provided by law, all sums for which he may be liable.

SEC. 31. The legislature shall not audit nor allow any private claim or account.

SEC. 32. The legislature, on the day of final adjournment, shall adjourn at twelve o'clock at noon.

SEC. 33. The legislature shall meet at the seat of government on the first Wednesday in February next, and on the first Wednesday in January of every second year thereafter, and at no other place or time, unless as provided in this constitution.†

SEC. 34. The election of senators and representatives, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November, in the year one thousand eight hundred and fifty-two, and on the Tuesday succeeding the first Monday of November of every second year thereafter.

SEC. 35. The legislature shall not establish a State paper. Every newspaper in the State which shall publish all the general laws of any session within forty days of their passage shall be entitled to receive a sum not exceeding fifteen dollars therefor.

SEC. 36. The legislature shall provide for the speedy publication of all statute laws of a public nature, and of such judicial decisions as it may deem expedient. All laws and judicial decisions shall be free for publication by any person.

SEC. 37. The legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy, where no provision is made for that purpose in this constitution.

SEC. 38. The legislature may confer upon organized townships, incorporated cities, and villages, and upon the board of supervisors of the several counties, such powers of a local, legislative, and administrative character as they may deem proper.

SEC. 39. The legislature shall pass no law to prevent any person from worshipping Almighty God according to the dictates of his own conscience, or to compel any person to attend, erect, or support any place of religious worship, or to pay tithes, taxes, or other rates for the support of any minister of the gospel or teacher of religion.

SEC. 40. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary, nor shall property belonging to the State be appropriated for any such purposes.

SEC. 41. The legislature shall not diminish or enlarge the civil or political rights,

* Amended; see page 1016.
† Amended; see page 1016.

privileges, and capacities of any person on account of his opinion or belief concerning matters of religion.

SEC. 42. No law shall ever be passed to restrain or abridge the liberty of speech or of the press; but every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of such right.

SEC. 43. The legislature shall pass no bill of attainder, *ex post facto* law, or law impairing the obligation of contracts.

SEC. 44. The privilege of the writ of *habeas corpus* remains, and shall not be suspended by the legislature, except, in case of rebellion or invasion, the public safety require it.

SEC. 45. The assent of two-thirds of the members elected to each house of the legislature shall be requisite to every bill appropriating the public money or property for local or private purposes.

SEC. 46. The legislature may authorize a trial by a jury of a less number than twelve men.

SEC. 47. The legislature shall not pass any act authorizing the grant of license for the sale of ardent spirits or other intoxicating liquors.

SEC. 48. The style of the laws shall be, "*The people of the State of Michigan enact.*"

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive power is vested in a governor, who shall hold his office for two years. A lieutenant-governor shall be chosen for the same term.

SEC. 2. No person shall be eligible to the office of governor or lieutenant-governor who has not been five years a citizen of the United States and a resident of this State two years next preceding his election, nor shall any person be eligible to either office who has not attained the age of thirty years.

SEC. 3. The governor and lieutenant-governor shall be elected at the times and places of choosing the members of the legislature. The person having the highest number of votes for governor or lieutenant-governor shall be elected. In case two or more persons shall have an equal and the highest number of votes for governor or lieutenant-governor, the legislature shall, by joint vote, choose one of such persons.

SEC. 4. The governor shall be commander-in-chief of the military and naval forces, and may call out such forces to execute the laws, to suppress insurrections, and to repel invasions.

SEC. 5. He shall transact all necessary business with officers of government, and may require information, in writing, from the officers of the executive department, upon any subject relating to the duties of their respective offices.

SEC. 6. He shall take care that the laws be faithfully executed.

SEC. 7. He may convene the legislature on extraordinary occasions.

SEC. 8. He shall give to the legislature, and at the close of his official term to the next legislature, information, by message, of the condition of the State, and recommend such measures to them as he shall deem expedient.

SEC. 9. He may convene the legislature at some other place when the seat of government becomes dangerous from disease or a common enemy.

SEC. 10. He shall issue writs of election to fill such vacancies as occur in the senate or house of representatives.

SEC. 11. He may grant reprieves, commutations, and pardons after convictions for all offences except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to regulations provided by law relative to the manner of applying for pardons. Upon conviction for treason he may suspend the execution of the sentence until the case shall be reported to the legislature at its next session, when the legislature shall either pardon or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the legislature at each session information of each case of reprieve, commutation, or pardon granted, and the reasons therefor.

SEC. 12. In case of the impeachment of the governor, his removal from office,

death, inability, resignation, or absence from the State, the powers and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability ceases. When the governor shall be out of the State in time of war, at the head of a military force thereof, he shall continue commander-in-chief of all the military force of the State.

SEC. 13. During a vacancy in the office of governor, if the lieutenant-governor die, resign, be impeached, displaced, be incapable of performing the duties of his office, or absent from the State, the president *pro tempore* of the senate shall act as governor until the vacancy be filled or the disability cease.

SEC. 14. The lieutenant-governor shall, by virtue of his office, be president of the senate. In committee of the whole he may debate all questions; and when there is an equal division, he shall give the casting vote.

SEC. 15. No member of Congress, nor any person holding office under the United States or this State, shall execute the office of governor.

SEC. 16. No person elected governor or lieutenant-governor shall be eligible to any office or appointment from the legislature, or either house thereof, during the time for which he was elected. All votes for either of them, for any such office, shall be void.

SEC. 17. The lieutenant [governor] and president of the senate *pro tempore*, when performing the duties of governor, shall receive the same compensation as the governor.

SEC. 18. All official acts of the governor, his approval of the laws excepted, shall be authenticated by the great seal of the State, which shall be kept by the secretary of state.

SEC. 19. All commissions issued to persons holding office under the provisions of this constitution shall be in the name and by the authority of the people of the State of Michigan, sealed with the great seal of the State, signed by the governor, and countersigned by the secretary of state.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power is vested in one supreme court, in circuit courts, in probate courts, and in justices of the peace. Municipal courts of civil and criminal jurisdiction may be established by the legislature in cities.

SEC. 2. For the term of six years, and thereafter until the legislature otherwise provide, the judges of the several circuit courts shall be judges of the supreme court, four of whom shall constitute a quorum. A concurrence of three shall be necessary to a final decision. After six years the legislature may provide by law for the organization of a supreme court with the jurisdiction and powers prescribed in this constitution, to consist of one chief justice and three associate justices, to be chosen by the electors of the State. Such supreme court, when so organized, shall not be changed or discontinued by the legislature for eight years thereafter. The judges thereof shall be so classified that but one of them shall go out of office at the same time. Their term of office shall be eight years.

SEC. 3. The supreme court shall have a general superintending control over all inferior courts, and shall have power to issue writs of error, *habeas corpus*, *mandamus*, *quo warranto*, *procedendo*, and other original and remedial writs, and to hear and determine the same. In all other cases it shall have appellate jurisdiction only.

SEC. 4. Four terms of the supreme court shall be held annually, at such times and places as may be designated by law.

SEC. 5. The supreme court shall, by general rules, establish, modify, and amend the practice in such court and in the circuit courts, and simplify the same. The legislature shall, as far as practicable, abolish distinctions between law and equity proceedings. The office of master in chancery is prohibited.

SEC. 6. The State shall be divided into eight judicial circuits; in each of which the electors thereof shall elect one circuit judge, who shall hold his office for the term of six years, and until his successor is elected and qualified.

SEC. 7. The legislature may alter the limits of circuits, or increase the number of the same. No alteration or increase shall have the effect to remove a judge from office. In every additional circuit established, the judge shall be elected by the electors of such circuit, and his term of office shall continue as provided in this constitution for judges of the circuit court.

SEC. 8. The circuit courts shall have original jurisdiction in all matters, civil and criminal, not excepted in this constitution, and not prohibited by law; and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control of the same. They shall also have power to issue writs of *habeas corpus*, *mandamus*, injunction, *quo warranto*, *certiorari*, and other writs necessary to carry into effect their orders, judgments, and decrees, and give them a general control over inferior courts and tribunals within their respective jurisdictions.

SEC. 9. Each of the judges of the circuit courts shall receive a salary payable quarterly. They shall be ineligible to any other than a judicial office during the term for which they are elected, and for one year thereafter. All votes for any person elected such judge for any office other than judicial, given either by the legislature or the people, shall be void.

SEC. 10. The supreme court may appoint a reporter of its decisions. The decisions of the supreme court shall be in writing, and signed by the judges concurring therein. Any judge dissenting therefrom shall give the reasons of such dissent in writing under his signature. All such opinions shall be filed in the office of the clerk of the supreme court. The judges of the circuit court, within their respective jurisdictions, may fill vacancies in the office of county clerk and of prosecuting attorney; but no judge of the supreme court, or circuit court, shall exercise any other power of appointment to public office.

SEC. 11. A circuit court shall be held at least twice in each year in every county organized for judicial purposes, and four times in each year in counties containing ten thousand inhabitants. Judges of the circuit court may hold courts for each other, and shall do so when required by law.

SEC. 12. The clerk of each county organized for judicial purposes shall be the clerk of the circuit court of such county, and of the supreme court when held within the same.

SEC. 13. In each of the counties organized for judicial purposes, there shall be a court of probate. The judge of such court shall be elected by the electors of the county in which he resides, and shall hold his office for four years, and until his successor is elected and qualified. The jurisdiction, powers, and duties of such court shall be prescribed by law.

SEC. 14. When a vacancy occurs in the office of judge of the supreme, circuit, or probate court, it shall be filled by appointment of the governor, which shall continue until a successor is elected and qualified. When elected, such successor shall hold his office the residue of the unexpired term.

SEC. 15. The supreme court, the circuit and probate courts of each county, shall be courts of record, and shall each have a common seal.

SEC. 16. The legislature may provide by law for the election of one or more persons in each organized county, who may be vested with judicial powers, not exceeding those of a judge of the circuit court at chambers.

SEC. 17. There shall be not exceeding four justices of the peace in each organized township. They shall be elected by the electors of the townships, and shall hold their offices for four years, and until their successors are elected and qualified. At the first election in any township, they shall be classified as shall be prescribed by law. A justice elected to fill a vacancy shall hold his office for the residue of the unexpired term. The legislature may increase the number of justices in cities.

SEC. 18. In civil cases justices of the peace shall have exclusive jurisdiction to the amount of one hundred dollars, and concurrent jurisdiction to the amount of three hundred dollars, which may be increased to five hundred dollars, with such exceptions and restrictions as may be provided by law. They shall also have such criminal jurisdiction and perform such duties as shall be prescribed by the legislature.

SEC. 19. Judges of the supreme court, circuit judges, and justices of the peace shall be conservators of the peace within their respective jurisdictions.

SEC. 20. The first election of judges of the circuit courts shall be held on the first Monday in April, one thousand eight hundred and fifty-one, and every sixth year thereafter. Whenever an additional circuit is created, provision shall be made to hold the subsequent election of such additional judges at the regular elections herein provided.

SEC. 21. The first election of judges of the probate courts shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and fifty-two, and every fourth year thereafter.

SEC. 22. Whenever a judge shall remove beyond the limits of the jurisdiction for which he was elected, or a justice of the peace from the township in which he was elected, or by a change in the boundaries of such township shall be placed without the same, they shall be deemed to have vacated their respective offices.

SEC. 23. The legislature may establish courts of conciliation, with such powers and duties as shall be prescribed by law.

SEC. 24. Any suitor in any court of this State shall have the right to prosecute or defend his suit, either in his own proper person, or by an attorney or agent of his choice.

SEC. 25. In all prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted. The jury shall have the right to determine the law and the fact.

SEC. 26. The person, houses, papers, and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place, or to seize any person or things, shall issue without describing them, nor without probable cause, supported by oath or affirmation.

SEC. 27. The right of trial by jury shall remain, but shall be deemed to be waived in all civil cases unless demanded by one of the parties, in such manner as shall be prescribed by law.

SEC. 28. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than twelve men in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and have the assistance of counsel for his defence.

SEC. 29. No person, after acquittal upon the merits, shall be tried for the same offence; all persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason, when the proof is evident or the presumption great.

SEC. 30. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 31. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted, nor shall witnesses be unreasonably detained.

SEC. 32. No person shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law.

SEC. 33. No person shall be imprisoned for debt arising out of or founded on a contract, express or implied, except in cases of fraud or breach of trust, or of moneys collected by public officers or in any professional employment. No person shall be imprisoned for a militia fine in time of peace.

SEC. 34. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

SEC. 35. The style of all process shall be, "In the name of the people of the State of Michigan."

ARTICLE VII.

ELECTIONS.

SECTION 1. In all elections, every white male citizen, every white male inhabitant residing in the State on the twenty-fourth day of June, one thousand eight hundred and thirty-five; every white male inhabitant residing in this State on the first day of January, one thousand eight hundred and fifty, who has declared his intention to become a citizen of the United States, pursuant to the laws thereof, six months preceding an election, or who has resided in this State two years and six months, and declared his intention as aforesaid; and every civilized male inhabitant of Indian descent, a native of the United States and not a member of any tribe, shall be an elector and entitled to vote; but no citizen or inhabitant shall be an elector, or entitled to vote at any election, unless he shall be above the age of twenty-one years, and has resided in this State three months, and in the township or ward in which he offers to vote, ten days next preceding such election.*

SEC. 2. All votes shall be given by ballot, except for such township officers as may be authorized by law to be otherwise chosen.

SEC. 3. Every elector, in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during his attendance at election, and in going to and returning from the same.

SEC. 4. No elector shall be obliged to do militia duty on the day of election, except in time of war or public danger, or attend court as a suitor or witness.

SEC. 5. No elector shall be deemed to have gained or lost a residence by reason of his being employed in the service of the United States or of this State; nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison.

SEC. 6. Laws may be passed to preserve the purity of elections, and guard against abuses of the elective franchise.

SEC. 7. No soldier, seaman, nor marine, in the Army or Navy of the United States, shall be deemed a resident of this State in consequence of being stationed in any military or naval place within the same.

SEC. 8. Any inhabitant who may hereafter be engaged in a duel, either as principal or accessory before the fact, shall be disqualified from holding any office under the constitution and laws of this State, and shall not be permitted to vote at any election.

ARTICLE VIII.

STATE OFFICERS.

SECTION 1. There shall be elected at each general biennial election a secretary of state, a superintendent of public instruction, a State treasurer, a commissioner of the land-office, an auditor-general, and an attorney-general, for the term of two years. They shall keep their offices at the seat of government, and shall perform such duties as may be prescribed by law.

SEC. 2. Their term of office shall commence on the first day of January, one thousand eight hundred and fifty-three, and of every second year thereafter.

SEC. 3. Whenever a vacancy shall occur in any of the State offices, the governor shall fill the same by appointment, by and with the advice and consent of the senate, if in session.

SEC. 4. The secretary of state, state treasurer, and commissioner of the State land-office shall constitute a board of State auditors to examine and adjust all claims against the State, not otherwise provided for by general law. They shall constitute a board of State canvassers to determine the result of all elections for governor, lieutenant-governor, and State officers, and of such other officers as shall by law be referred to them.

*Amended; see page 1017.

SEC. 5. In case two or more persons have an equal and the highest number of votes for any office, as canvassed by the board of State canvassers, the legislature, in joint convention, shall choose one of said persons to fill such office. When the determination of the board of State canvassers is contested, the legislature, in joint convention, shall decide which person is elected.

ARTICLE IX.

SALARIES.

SECTION 1. The governor shall receive an annual salary of one thousand dollars; the judges of the circuit court shall each receive an annual salary of one thousand five hundred dollars; the State treasurer shall receive an annual salary of one thousand dollars; the auditor-general shall receive an annual salary of one thousand dollars; the superintendent of public instruction shall receive an annual salary of one thousand dollars; the secretary of state shall receive an annual salary of eight hundred dollars; the commissioner of the land-office shall receive an annual salary of eight hundred dollars; the attorney-general shall receive an annual salary of eight hundred dollars. They shall receive no fees or perquisites whatever, for the performance of any duties connected with their offices. It shall not be competent for the legislature to increase the salaries herein provided.

ARTICLE X.

COUNTIES.

SECTION 1. Each organized county shall be a body-corporate, with such powers and immunities as shall be established by law. All suits and proceedings by or against a county shall be in the name thereof.

SEC. 2. No organized county shall ever be reduced by the organization of new counties to less than sixteen townships, as surveyed by the United States, unless, in pursuance of law, a majority of electors residing in each county to be affected thereby shall so decide. The legislature may organize any city into a separate county, when it has attained a population of twenty thousand inhabitants, without reference to geographical extent, when a majority of the electors of a county in which such city may be situated, voting thereon, shall be in favor of a separate organization.

SEC. 3. In each organized county there shall be a sheriff, a county clerk, a county treasurer, a register of deeds, and a prosecuting attorney chosen, by the electors thereof, once in two years, and as often as vacancies shall happen, whose duties and powers shall be prescribed by law. The board of supervisors in any county may unite the offices of county clerk and register of deeds in one office, or disconnect the same.

SEC. 4. The sheriff, county clerk, county treasurer, judge of probate, and register of deeds shall hold their offices at the county-seat.

SEC. 5. The sheriff shall hold no other office, and shall be incapable of holding the office of sheriff longer than four in any period of six years. He may be required by law to renew his security from time to time, and in default of giving such security his office shall be deemed vacant. The county shall never be responsible for his acts.

SEC. 6. A board of supervisors, consisting of one from each organized township, shall be established in each county, with such powers as shall be prescribed by law.

SEC. 7. Cities shall have such representation in the board of supervisors of the counties in which they are situated as the legislature may direct.

SEC. 8. No county-seat, once established, shall be removed, until the place to which it is proposed to be removed shall be designated by two-thirds of the board of supervisors of the county, and a majority of the electors voting thereon shall have voted in favor of the proposed location, in such manner as shall be prescribed by law.

SEC. 9. The board of supervisors of any county may borrow or raise by tax one thousand dollars, for constructing or repairing public buildings, highways, or bridges; but no greater sum shall be borrowed or raised by tax for such purpose in any one year, unless authorized by a majority of the electors of such county voting thereon.

SEC. 10. The board of supervisors, or, in the county of Wayne, the board of county auditors, shall have the exclusive power to prescribe and fix the compensation for all services rendered for, and to adjust all claims against, their respective counties, and the sum so fixed or defined shall be subject to no appeal.

SEC. 11. The board of supervisors of each organized county may provide for laying out highways, constructing bridges, and organizing townships, under such restrictions and limitations as shall be prescribed by law.

ARTICLE XI.

TOWNSHIPS.

SECTION 1. There shall be elected annually, on the first Monday of April, in each organized township, one supervisor, one township clerk, who shall be *ex-officio* school inspector, one commissioner of highways, one township treasurer, one school inspector, not exceeding four constables, and one overseer of highways for each highway district, whose powers and duties shall be prescribed by law.

SEC. 2. Each organized township shall be a body-corporate, with such powers and immunities as shall be prescribed by law. All suits and proceedings by or against a township shall be in the name thereof.

ARTICLE XII.

IMPEACHMENTS AND REMOVALS FROM OFFICE.

SECTION 1. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office, or for crimes or misdemeanors; but a majority of the members elected shall be necessary to direct an impeachment.

SEC. 2. Every impeachment shall be tried by the senate. When the governor or lieutenant-governor is tried, the chief justice of the supreme court shall preside. When an impeachment is directed, the senate shall take an oath or affirmation truly and impartially to try and determine the same according to the evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. Judgment, in case of impeachment, shall not extend further than removal from office; but the party convicted shall be liable to punishment according to law.

SEC. 3. When an impeachment is directed, the house of representatives shall elect from their own body three members, whose duty it shall be to prosecute such impeachment. No impeachment shall be tried until the final adjournment of the legislature, when the senate shall proceed to try the same.

SEC. 4. No judicial officer shall exercise his office after an impeachment is directed, until he is acquitted.

SEC. 5. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer until he shall be acquitted, or until after the election and qualification of a successor.

SEC. 6. For reasonable cause, which shall not be sufficient ground for the impeachment of a judge, the governor shall remove him on a concurrent resolution of two-thirds of the members elected to each house of the legislature; but the cause for which such removal is required shall be stated at length in such resolution.

SEC. 7. The legislature shall provide by law for the removal of any officer elected by a county, township, or school-district, in such manner and for such cause as to them shall seem just and proper.

ARTICLE XIII.

EDUCATION.

SECTION 1. The superintendent of public instruction shall have the general supervision of public instruction, and his duties shall be prescribed by law.

SEC. 2. The proceeds from the sales of all lands that have been or hereafter may be granted by the United States to the State for educational purposes, and the proceeds of all lands or other property given by individuals or appropriated by the State for like purposes, shall be and remain a perpetual fund, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably



appropriated and annually applied to the specific objects of the original gift, grant, or appropriation.

SEC. 3. All lands, the titles to which shall fail from a defect of heirs, shall escheat to the State; and the interest on the clear proceeds from the sales thereof shall be appropriated exclusively to the support of primary schools.

SEC. 4. The legislature shall, within five years from the adoption of this constitution, provide for and establish a system of primary schools, whereby a school shall be kept, without charge for tuition, at least three months in each year, in every school-district in the State, and all instruction in said schools shall be conducted in the English language.

SEC. 5. A school shall be maintained in each school-district at least three months in each year. Any school-district neglecting to maintain such school shall be deprived, for the ensuing year, of its proportion of the income of the primary-school fund, and of all funds arising from taxes for the support of schools.

SEC. 6. There shall be elected in each judicial circuit, at the time of the election of the judge of such circuit, a regent of the university, whose term of office shall be the same as that of such judge. The regents thus elected shall constitute the board of regents of the University of Michigan.*

SEC. 7. The regents of the university, and their successors in office, shall continue to constitute the body-corporate known by the name and title of "The regents of the University of Michigan."

SEC. 8. The regents of the university shall, at their first annual meeting, or as soon thereafter as may be, elect a president of the university, who shall be *ex-officio* a member of their board, with the privilege of speaking, but not of voting. He shall preside at the meetings of the regents, and be the principal executive officer of the university. The board of regents shall have the general supervision of the university, and the direction and control of all expenditures from the university interest-fund.

SEC. 9. There shall be elected at the general election in the year one thousand eight hundred and fifty-two, three members of a State board of education, one for two years, one for four years, and one for six years; and at each succeeding biennial election there shall be elected one member of such board, who shall hold his office for six years. The superintendent of public instruction shall be *ex-officio* a member and secretary of such board. The board shall have the general supervision of the State Normal School, and their duties shall be prescribed by law.

SEC. 10. Institutions for the benefit of those inhabitants who are deaf, dumb, blind, or insane shall always be fostered and supported.

SEC. 11. The legislature shall encourage the promotion of intellectual, scientific, and agricultural improvement; and shall, as soon as practicable, provide for the establishment of an agricultural school. The legislature may appropriate the twenty-two sections of salt-spring lands now unappropriated, or the money arising from the sale of the same, where such lands have been already sold, and any land which may hereafter be granted or appropriated for such purpose, for the support and maintenance of such school, and may make the same a branch of the university for instruction in agriculture and the natural sciences connected therewith, and place the same under the supervision of the regents of the university.

SEC. 12. The legislature shall also provide for the establishment of at least one librarian in each township; and all fines assessed and collected in the several counties and townships for any breach of the penal laws shall be exclusively applied to the support of such libraries.

ARTICLE XIV.

FINANCE AND TAXATION.

SECTION 1. All specific State taxes, except those received from the mining companies of the upper peninsula, shall be applied in paying the interest upon the primary-school, university, and other educational funds, and the interest and principal of the State debt, in the order herein recited, until the extinguishment of the State debt,

* Amended; see page 1017.

other than the amounts due to educational funds, when such specific taxes shall be added to and constitute a part of the primary-school interest-fund. The legislature shall provide for an annual tax, sufficient, with other resources, to pay the estimated expenses of the State government, the interest of the State debt, and such deficiency as may occur in the resources.

SEC. 2. The legislature shall provide by law a sinking-fund, of at least twenty thousand dollars a year, to commence in eighteen hundred and fifty-two, with compound interest at the rate of 6 per cent. per annum, and an annual increase of at least 5 per cent., to be applied solely to the payment and extinguishment of the principal of the State debt, other than the amounts due to educational funds, and shall be continued until the extinguishment thereof. The unfunded debt shall not be funded or redeemed at a value exceeding that established by law in one thousand eight hundred and forty-eight.

SEC. 3. The State may contract debts to meet deficits in revenue. Such debts shall not in the aggregate at any one time exceed fifty thousand dollars. The moneys so raised shall be applied to the purposes for which they were obtained, or to the payment of the debts so contracted.

SEC. 4. The State may contract debts to repel invasion, suppress insurrection, or defend the State in time of war. The money arising from the contracting of such debts shall be applied to the purposes for which it was raised, or to repay such debts.

SEC. 5. No money shall be paid out of the treasury except in pursuance of appropriations made by law.

SEC. 6. The credit of the State shall not be granted to or in aid of any person, association, or corporation.

SEC. 7. No scrip, certificate, or other evidence of State indebtedness shall be issued except for the redemption of stock previously issued, or for such debts as are expressly authorized in this constitution.

SEC. 8. The State shall not subscribe to, or be interested in, the stock of any company, association, or corporation.

SEC. 9. The State shall not be a party to, or interested in, any work of internal improvement, nor engaged in carrying on any such work, except in the expenditure of grants to the State of land or other property.

SEC. 10. The State may continue to collect all specific taxes accruing to the treasury under existing laws. The legislature may provide for the collection of specific taxes from banking, railroad, plank-road, and other corporations hereafter created.

SEC. 11. The legislature shall provide a uniform rule of taxation, except on property paying specific taxes, and taxes shall be levied on such property as shall be prescribed by law.

SEC. 12. All assessments hereafter authorized shall be on property at its cash value.

SEC. 13. The legislature shall provide for an equalization by a State board, in the year one thousand eight hundred and fifty-one, and every fifth year thereafter, of assessments on all taxable property, except that paying specific taxes.

SEC. 14. Every law which imposes, continues, or revives a tax shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

ARTICLE XV.

CORPORATIONS.

SECTION 1. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All laws passed pursuant to this section may be altered, amended, or repealed.*

SEC. 2. No banking law, or law for banking purposes, or amendments thereof, shall have effect until the same shall, after its passage, be submitted to a vote of the electors of the State, at a general election, and be approved by a majority of the votes cast thereon at such election.†

SEC. 3. The officers and stockholders of every corporation or association for bank-

*Amended; see page 1017. †Amended; see page 1017.

ing purposes, issuing bank-notes or paper-credits to circulate as money, shall be individually liable for all debts contracted during the time of their being officers or stockholders of such corporation or association.*

SEC. 4. The legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require security to the full amount of notes and bills so registered in State or United States stocks, bearing interest, which shall be deposited with the State treasurer, for the redemption of such bills or notes in specie.†

SEC. 5. In case of the insolvency of any bank or banking association, the bill-holders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

SEC. 6. The legislature shall pass no law authorizing or sanctioning the suspension of specie payments by any person, association, or corporation.

SEC. 7. The stockholders of all corporations and joint-stock associations shall be individually liable for all labor performed for such corporation or association.

SEC. 8. The legislature shall pass no law altering or amending any act of incorporation heretofore granted without the assent of two-thirds of the members elected to each house; nor shall any such act be renewed or extended. This restriction shall not apply to municipal corporations.

SEC. 9. The property of no person shall be taken by any corporation for public use without compensation being first made or secured, in such manner as may be prescribed by law.

SEC. 10. No corporation, except for municipal purposes, or for the construction of railroads, plank-roads, and canals, shall be created for a longer time than thirty years.

SEC. 11. The term "corporations," as used in the preceding sections of this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. All corporations shall have the right to sue, and be subject to be sued, in all courts, in like cases as natural persons.

SEC. 12. No corporation shall hold any real estate hereafter acquired for a longer period than ten years, except such real estate as shall be actually occupied by such corporation in the exercise of its franchises.

SEC. 13. The legislature shall provide for the incorporation and organization of cities and villages, and shall restrict their powers of taxation, borrowing money, contracting debts, and loaning their credit.

SEC. 14. Judicial officers of cities and villages shall be elected, and all other officers shall be elected or appointed at such time and in such manner as the legislature may direct.

SEC. 15. Private property shall not be taken for public improvements in cities and villages without the consent of the owner, unless the compensation therefor shall first be determined by a jury of freeholders, and actually paid or secured in the manner provided by law.

SEC. 16. Previous notice of any application for an alteration of the charter of any corporation shall be given in such manner as may be prescribed by law.

ARTICLE XVI.

EXEMPTIONS.

SECTION 1. The personal property of every resident of this State, to consist of such property only as shall be designated by law, shall be exempted to the amount of not less than five hundred dollars from sale on execution, or other final process of any court, issued for the collection of any debt contracted after the adoption of this constitution.

SEC. 2. Every homestead of not exceeding forty acres of land, and the dwelling-house thereon, and the appurtenances to be selected by the owner thereof, and not included in any town-plat, city, or village; or instead thereof, at the option of the

* Amended; see page 1017. † Amended; see page 1017.

owner, any lot in any city, village, or recorded town-plat, or such parts of lots as shall be equal thereto, and the dwelling-house thereon and its appurtenances, owned and occupied by any resident of the State, not exceeding in value fifteen hundred dollars, shall be exempt from forced sale on execution, or any other final process from a court, for any debt contracted after the adoption of this constitution. Such exemption shall not extend to any mortgage thereon lawfully obtained; but such mortgage, or other alienation of such land, by the owner thereof, if a married man, shall not be valid without the signature of the wife to the same.

SEC. 3. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of his debts, contracted after the adoption of this constitution, in all cases, during the minority of his children.

SEC. 4. If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt, and the rents and profits thereof shall accrue to her benefit during the time of her widowhood, unless she be the owner of a homestead in her own right.

SEC. 5. The real and personal estate of every female, acquired before marriage, and all property to which she may afterwards become entitled, by gift, grant, inheritance, or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations, or engagements of her husband; and may be devised or bequeathed by her as if she were unmarried.

ARTICLE XVII.

MILITIA.

SECTION 1. The militia shall be composed of all able-bodied white male citizens between the ages of eighteen and forty-five years, except such as are exempted by the laws of the United States or of this State; but all such citizens of any religious denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be excused therefrom, upon such conditions as shall be prescribed by law.*

SEC. 2. The legislature shall provide by law for organizing, equipping, and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the laws of the United States.

SEC. 3. Officers of the militia shall be elected or appointed, and be commissioned, in such manner as may be provided by law.

ARTICLE XVIII.

MISCELLANEOUS PROVISIONS.

SECTION 1. Members of the legislature, and all officers, executive and judicial, except such officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear [or affirm] that I will support the Constitution of the United States and the constitution of this State, and that I will faithfully discharge the duties of the office of ——— according to the best of my ability." And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

SEC. 2. When private property is taken for the use or benefit of the public, the necessity for using such property, and the just compensation to be made therefor, except when to be made by the State, shall be ascertained by a jury of twelve freeholders, residing in the vicinity of such property, or by not less than three commissioners, appointed by a court of record, as shall be prescribed by law.†

SEC. 3. No mechanical trade shall hereafter be taught to convicts in the State prison of this State, except the manufacture of those articles of which the chief supply for home consumption is imported from other States or countries.

SEC. 4. No navigable stream in this State shall be either bridged or dammed without authority from the board of supervisors of the proper county, under the provisions of law. No such law shall prejudice the right of individuals to the free navigation of

*Amended; see page 1018. †Amended; see page 1050.



such streams, or preclude the State from the further improvement of the navigation of such stream.

SEC. 5. An accurate statement of the receipts and expenditures of the public moneys shall be attached to and published with the laws at every regular session of the legislature.

SEC. 6. The laws, public records, and the written judicial and legislative proceedings of the State, shall be conducted, promulgated, and preserved in the English language.

SEC. 7. Every person has a right to bear arms for the defence of himself and the State.

SEC. 8. The military shall, in all cases and at all times, be in strict subordination to the civil power.

SEC. 9. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

SEC. 10. The people have the right peaceably to assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

SEC. 11. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

SEC. 12. No lease or grant hereafter of agricultural land for a longer period than twelve years, reserving any rent or service of any kind, shall be valid.

SEC. 13. Aliens who are, or who may hereafter become, *bona-fide* residents of this State shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property as native-born citizens.

SEC. 14. The property of no person shall be taken for public use without just compensation therefor. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road and the amount of all damages to be sustained by the opening thereof shall be first determined by a jury of freeholders, and such amount, together with the expenses of proceedings, shall be paid by the person or persons to be benefited.

SEC. 15. No general revision of the laws shall hereafter be made. When a reprint thereof becomes necessary, the legislature, in joint convention, shall appoint a suitable person to collect together such acts and parts of acts as are in force, and, without alteration, arrange them under appropriate heads and titles. The laws so arranged shall be submitted to two commissioners appointed by the governor for examination, and if certified by them to be a correct compilation of all general laws in force, shall be printed in such manner as shall be prescribed by law.

ARTICLE XIX.

UPPER PENINSULA.

SECTION 1. The counties of Mackinac, Chippewa, Delta, Marquette, Schoolcraft, Houghton, and Ontonagon, and the islands and territory thereunto attached, the islands of Lake Superior, Huron, and Michigan, and in Green Bay, and the straits of Mackinac and the river Sainte Marie shall constitute a separate judicial district, and be entitled to a district judge and district attorney.

SEC. 2. The district judge shall be elected by the electors of such district, and shall perform the same duties and possess the same powers as a circuit judge in his circuit, and shall hold his office for the same period.

SEC. 3. The district attorney shall be elected every two years by the electors of the district, and shall perform the duties of prosecuting attorney throughout the entire district, and may issue warrants for the arrest of offenders in cases of felony, to be proceeded with as shall be prescribed by law.

SEC. 4. Such judicial districts shall be entitled at all times to at least one senator, and, until entitled to more by its population, it shall have three members of the house of representatives, to be apportioned among the several counties by the legislature.

SEC. 5. The legislature may provide for the payment of the district judge a salary

not exceeding one thousand dollars a year, and of the district attorney not exceeding seven hundred dollars a year, and may allow extra compensation to the members of the legislature from such territory not exceeding two dollars a day during any session.

SEC. 6. The elections for all district or county officers, State senator or representatives, within the boundaries defined in this article, shall take place on the last Tuesday of September in the respective years in which they may be required. The county canvass shall be held on the first Tuesday in October thereafter, and the district canvass on the last Tuesday of said October.*

SEC. 7. One-half of the taxes received into the treasury from mining corporations in the upper peninsula paying an annual State tax of 1 per cent. shall be paid to the treasurers of the counties from which it is received, to be applied for township and county purposes, as provided by law. The legislature shall have power, after the year one thousand eight hundred and fifty-five, to reduce the amount to be refunded.

SEC. 8. The legislature may change the location of the State prison from Jackson to the upper peninsula.

SEC. 9. The charters of the several mining corporations may be modified by the legislature in regard to the term limited for subscribing to stock and in relation to the quantity of land which a corporation shall hold, but the capital shall not be increased nor the time for the existence of charters extended. No such corporation shall be permitted to purchase or hold any real estate, except such as shall be necessary for the exercise of its corporate franchises.

ARTICLE XX.

AMENDMENT AND REVISION OF THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives. If the same shall be agreed to by two-thirds of the members elected to each house, such amendment or amendments shall be entered on their journals respectively, with the yeas and nays taken thereon, and the same shall be submitted to the electors at the next general election thereafter, and if a majority of the electors qualified to vote for members of the legislature voting thereon shall ratify and approve such amendment or amendments the same shall become part of the constitution.

SEC. 2. At the general election to be held in the year one thousand eight hundred and sixty-six, and in each sixteenth year thereafter, and also at such other times as the legislature may by law provide, the question of a general revision of the constitution shall be submitted to the electors qualified to vote for members of the legislature; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, the legislature, at the next session, shall provide by law for the election of delegates to such convention. All the amendments shall take effect at the commencement of the political year after their adoption.†

SCHEDULE.

That no inconvenience may arise from the changes in the constitution of this State, and in order to carry the same into complete operation, it is hereby declared that—

SECTION 1. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations or are altered or repealed by the legislature.

SEC. 2. All writs, actions, causes of action, prosecutions, and rights of individuals and of bodies-corporate, and of the State, and all charters of incorporation shall continue; and all indictments which shall have been found, or which may hereafter be found, for any crime or offence committed before the adoption of this constitution, may be proceeded upon as if no change had taken place. The several courts, except as herein otherwise provided, shall continue with the like powers and jurisdiction.

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* Amended; see page 1017.

† Amended; see page 1019.

both at law and in equity, as if this constitution had not been adopted, and until the organization of the judicial department under this constitution.

SEC. 3. That all fines, penalties, forfeitures, and escheats accruing to the State of Michigan under the present constitution and laws shall accrue to the use of the State under this constitution.

SEC. 4. That all recognizances, bonds, obligations, and all other instruments entered into or executed before the adoption of this constitution, to the people of the State of Michigan, to any State, county, or township, or any public officer or public body, or which may be entered into or executed, under existing laws, "to the people of the State of Michigan," to any such officer or public body, before the complete organization of the departments of government under this constitution, shall remain binding and valid; and rights and liabilities upon the same shall continue, and may be prosecuted as provided by law. And all crimes and misdemeanors, and penal actions, shall be tried, punished, and prosecuted, as though no change had taken place, until otherwise provided by law.

SEC. 5. A governor and lieutenant-governor shall be chosen under the existing constitution and laws, to serve after the expiration of the term of the present incumbent.

SEC. 6. All officers, civil and military, now holding any office or appointment, shall continue to hold their respective offices, unless removed by competent authority, until superseded under the laws now in force, or under this constitution.

SEC. 7. The members of the senate and house of representatives of the legislature of one thousand eight hundred and fifty-one shall continue in office under the provisions of law until superseded by their successors elected and qualified under this constitution.

SEC. 8. All county officers, unless removed by competent authority, shall continue to hold their respective offices until the first day of January, in the year one thousand eight hundred and fifty-three. The laws now in force as to the election, qualification, and duties of township officers, shall continue in force until the legislature shall, in conformity to the provisions of this constitution, provide for the holding of elections to fill such offices and prescribe the duties of such officers respectively.

SEC. 9. On the first day of January, in the year one thousand eight hundred and fifty-two, the terms of office of the judges of the supreme court, under existing laws, and of the judges of the county courts, and of the clerks of the supreme court, shall expire on the said day.

SEC. 10. On the first day of January, in the year one thousand eight hundred and fifty-two, the jurisdiction of all suits and proceedings then pending in the present supreme courts shall become vested in the supreme court established by this constitution, and shall be finally adjudicated by the court where the same may be pending. The jurisdiction of all suits and proceedings at law and equity, then pending in the circuit courts and county courts for the several counties, shall become vested in the circuit courts of the said counties, and district court for the upper peninsula.

SEC. 11. The probate courts, the courts of justices of the peace, and the police court authorized by an act entitled "An act to establish a police court in the city of Detroit," approved April second, one thousand eight hundred and fifty, shall continue to exercise the jurisdiction and powers now conferred upon them respectively, until otherwise provided by law.

SEC. 12. The office of State printer shall be vested in the present incumbent until the expiration of the term for which he was elected under the law then in force; and all the provisions of the said law relating to his duties, rights, privileges, and compensation shall remain unimpaired and inviolate until the expiration of his said term of office.

SEC. 13. It shall be the duty of the legislature, at their first session, to adapt the present laws to the provisions of this constitution, as far as may be.

SEC. 14. The attorney-general of the State is required to prepare and report to the legislature, at the commencement of the next session, such changes and modifications in existing laws as may be deemed necessary to adapt the same to this constitution,

and as may be best calculated to carry into effect its provisions; and he shall receive no additional compensation therefor.

SEC. 15. Any territory attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming a part of such county, so far as regards elections, for the purpose of representation.

SEC. 16. This constitution shall be submitted to the people for their adoption or rejection, at the general election to be held on the first Tuesday of November, one thousand eight hundred and fifty; and there shall also be submitted for adoption or rejection, at the same time, the separate resolution in relation to the elective franchise; and it shall be the duty of the secretary of state, and all other officers required to give or publish any notice in regard to the said general election, to give notice, as provided by law in case of an election of governor, that this constitution has been duly submitted to the electors at said election. Every newspaper within this State publishing, in the month of September next, this constitution as submitted, shall receive, as compensation therefor, the sum of twenty-five dollars, to be paid as the legislature shall direct.

SEC. 17. Any person entitled to vote for members of the legislature, by the constitution and laws now in force, shall, at the said election, be entitled to vote for the adoption or rejection of this constitution, and for or against the resolution separately submitted, at the places and in the manner provided by law for the election of members of the legislature.

SEC. 18. At the said general election, a ballot-box shall be kept by the several boards of inspectors thereof, for receiving the votes cast for or against the adoption of this constitution; and on the ballots shall be written or printed, or partly written and partly printed, the words "Adoption of the constitution—yes," or "Adoption of the constitution—no."

SEC. 19. The canvass of the votes cast for the adoption or rejection of this constitution, and the provision in relation to the elective franchise separately submitted, and the returns thereof, shall be made by the proper convassing officers, in the same manner as now provided by law for the canvass and return of the votes cast at an election for governor, as near as may be, and the return thereof shall be directed to the secretary of state. On the sixteenth day of December next, or within five days thereafter, the auditor-general, State treasurer, and secretary of state shall meet at the capitol, and proceed, in presence of the governor, to examine and canvass the returns of the said votes, and proclamation shall forthwith be made by the governor of the result thereof. If it shall appear that a majority of the votes cast upon the question have thereon "Adoption of the constitution—yes," this constitution shall be the supreme law of the State from and after the first day of January, one thousand eight hundred and fifty-one, except as is herein otherwise provided; but if a majority of the votes cast upon the question have thereon "Adoption of the constitution—no," the same shall be null and void. And in case of the adoption of this constitution, said officers shall immediately, or as soon thereafter as practicable, proceed to open the statements of votes returned from the several counties for judges of the supreme court and State officers under the act entitled "An act to amend the revised statutes and to provide for the election of certain officers by the people in pursuance to an amendment to the constitution, approved February sixteenth, one thousand eight hundred and fifty, and shall ascertain, determine, and certify the results of the election for said officers under said acts, in the same manner, as near as may be, as is now provided by law in regard to the election of Representatives in Congress. And the several judges and officers so ascertained to have been elected may be qualified and enter upon the duties of their respective offices on the first Monday of January next, or as soon thereafter as practicable.

SEC. 20. The salaries or compensation of all persons holding office under the present constitution shall continue to be the same as now provided by law, until superseded by their successors elected or appointed under this constitution; and it shall not be lawful hereafter for the legislature to increase or diminish the compensation of any officer during the term for which he is elected or appointed.

SEC. 21. The legislature, at their first session, shall provide for the payment of all

expenditures of the convention to revise the constitution, and of the publication of the same, as is provided in this article.

SEC. 22. Every county, except Mackinaw and Chippewa, entitled to a representative in the legislature, at the time of the adoption of this constitution, shall continue to be so entitled under this constitution; and the county of Saginaw, with the territory that may be attached, shall be entitled to one representative; the county of Tuscola, and the territory that may be attached, one representative; the county of Sanilac, and the territory that may be attached, one representative; the counties of Midland and Aronac, with the territory that may be attached, one representative; the county of Montcalm, with the territory that may be attached thereto, one representative; and the counties of Newaygo and Oceana, with the territory that may be attached thereto, one representative. Each county having a ratio of representation, and a fraction over equal to a moiety of said ratio, shall be entitled to two representatives, and so on above that number, giving one additional member for each additional ratio.

SEC. 23. The cases pending and undisposed of in the late court of chancery at the time of the adoption of this constitution shall continue to be heard and determined by the judges of the supreme court. But the legislature shall, at its session in one thousand eight hundred and fifty-one, provide by law for the transfer of said causes that may remain undisposed of on the first day of January, one thousand eight hundred and fifty-two, to the supreme or circuit court established by this constitution, or require that the same may be heard and determined by the circuit judges.

SEC. 24. The term of office of the governor and lieutenant-governor shall commence on the first day of January next after their election.

SEC. 25. The Territory described in the article entitled "Upper peninsula" shall be attached to and constitute a part of the third circuit for the election of a regent of the university.

SEC. 26. The legislature shall have authority, after the expiration of the term of office of the district judge first elected for the "Upper peninsula," to abolish said office of district judge and district attorney, or either of them.

SEC. 27. The legislature shall, at its session of one thousand eight hundred and fifty-one, apportion the representatives among the several counties and districts, and divide the State into senate districts, pursuant to the provisions of this constitution.

SEC. 28. The terms of office of all State and county officers, of the circuit judges, members of the board of education, and members of the legislature, shall begin on the first day of January next succeeding their election.

SEC. 29. The State, exclusive of the upper peninsula, shall be divided into eight judicial circuits, and the counties of Monroe, Lenawee, and Hillsdale shall constitute the first circuit; the counties of Branch, Saint Joseph, Cass, and Berrien shall constitute the second circuit; the county of Wayne shall constitute the third circuit; the counties of Washtenaw, Jackson, aad Ingham shall constitute the fourth circuit; the counties of Calhoun, Kalamazoo, Allegan, Eaton, and Van Buren shall constitute the fifth circuit; the counties of Saint Clair, Macomb, Oakland, and Sanilac shall constitute sixth circuit; the counties of Lapeer, Genesee, Saginaw, Shiawassee, Livingston, Tuscola, and Midland shall constitute the seventh circuit; and the counties of Barry, Kent, Ottawa, Ionia, Clinton, and Montcalm shall constitute the eighth circuit.

RESOLUTION.

SEC. 30. At the next general election, and at the same time when the votes of the electors shall be taken for the adoption or rejection of this constitution, an additional amendment to section one of article seven, in the words following: "Every colored male inhabitant possessing the qualifications required by the first section of the second article of the constitution shall have the rights and privileges of an elector," shall be separately submitted to the electors of this State for their adoption or rejection, in form following, to wit: A separate ballot may be given by every person having the right to vote for the revised constitution, to be deposited in a separate box. Upon the ballots given for the adoption of the said separate amendment shall be written or printed, or partly written and partly printed, the words "Equal suffrage to

colored persons? Yes;" and upon all ballots given against the adoption of the said separate amendment, in like manner, the words "Equal suffrage to colored persons? No." And on such ballots shall be written or printed, or partly written and partly printed, the words "Constitution: Suffrage," in such manner that such words shall appear on the outer side of such ballot when folded. If, at said election, a majority of all the votes given for and against the said separate amendment shall contain the words "Equal suffrage to colored persons? Yes," then there shall be inserted in the first section of the article between the words "tribe" and "shall:" these words: "and every colored male inhabitant," anything in the constitution to the contrary notwithstanding.*

Done in convention, at the capitol of the State, this fifteenth day of August, in the year of our Lord one thousand eight hundred and fifty, and of the Independence of the United States the seventy-fifth.

D. GOODWIN, *President.*

JOHN SWEGLES, JR.,
HORACE S. ROBERTS,
CHARLES HASCALL,
Secretaries.

AMENDMENTS TO THE CONSTITUTION OF 1850.†

RATIFIED 1860.

ART. IV. SEC. 15. *So altered and amended as to read:* The compensation of the members of the legislature shall be three dollars per day for actual attendance and when absent on account of sickness; but the legislature may allow extra compensation to the members from the territory of the upper peninsula, not exceeding two dollars per day during a session. When convened in extra session, their compensation shall be three dollars a day for the first twenty days, and nothing thereafter; and they shall legislate on no other subjects than those expressly stated in the governor's proclamation, or submitted to them by special message. They shall be entitled to ten cents and no more for every mile actually traveled, in going to and returning from the place of meeting, on the usually travelled route; and for stationery and newspapers, not exceeding five dollars for each member during any session. Each member shall be entitled to one copy of the laws, journals, and documents of the legislature of which he was a member; but shall not receive, at the expense of the State, books, newspapers, or other perquisites of office, not expressly authorized by this constitution.

SEC. 28. *So altered and amended as to read:* No new bill shall be introduced into either house of the legislature after the first fifty days of a session shall have expired.

SEC. 33. *So altered and amended as to read:* The legislature shall meet at the seat of government on the first Wednesday in January, in the year one thousand eight hundred and sixty-one, and on the first Wednesday of January in every second year thereafter, and at no other place or time, unless as provided in the constitution of the State, and shall adjourn without day at such time as the legislature shall fix by concurrent resolution.

ART. XV. SEC. 3. *So altered and amended as to read:* The officers and stockholders of every corporation or association for banking purposes, issuing bank-notes or paper-credits to circulate as money, shall be individually liable for all debts contracted during the term of their being officers or stockholders of such corporation or association, equally and ratably to the extent of their respective shares of stock in any such corporation or association.

ART. XVIII. SEC. 2. *So altered and amended as to read:* When private property is taken for the use or benefit of the public, the necessity for using such property, and

* This proposition was rejected by the people.

† These amendments were successively adopted by a two-thirds vote in each branch of the legislature, and submitted to the electors at the next general election for their ratification.

the just compensation to be made therefor, except when to be made by the State, shall be ascertained by a jury of twelve freeholders, residing in the vicinity of such property, or by not less than three commissioners, appointed by a court of record, as shall be prescribed by law: *Provided*, The foregoing provisions shall in no case be construed to apply to the action of commissioners of highways in the official discharge of their duty as highway commissioners.

RATIFIED 1862.

ART. XII. SEC. 8. *Added:* The governor shall have power, and it shall be his duty, except at such time as the legislature may be in session, to examine into the condition and administration of any public office, and the acts of any public officer, elective or appointed; to remove from office for gross neglect of duty, or for corrupt conduct in office, or any other misfeasance or malfeasance therein, either of the following State officers, to wit: The attorney-general, State treasurer, commissioner of the land-office, secretary of state, auditor-general, superintendent public instruction or members of the state board of education, or any other officers of the State except legislative and judicial, elective or appointed; and to appoint a successor for the remainder of their respective unexpired term of office, and report the causes of such removal to the legislature at its next session.

ART. XIII. SEC. 6. *So altered and amended as to read:* There shall be elected in the year eighteen hundred and sixty-three, at the time of the election of a justice of the supreme court, eight regents of the university, two of whom shall hold their office for two years, two for four years, two for six years, and two for eight years. They shall enter upon the duties of their office on the first of January next succeeding their election. At every regular election of a justice of the supreme court thereafter there shall be elected two regents, whose term of office shall be eight years. When a vacancy shall occur in the office of regent, it shall be filled by appointment of the governor. The regents thus elected shall constitute the board of regents of the University of Michigan.

ART. XV. SECTION 1. *So altered and amended as to read:* Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All laws passed pursuant to this section may be amended, altered, or repealed. But the legislature may, by a vote of two-thirds of the members elected to each house, create a single bank with branches.

SEC. 2. *So altered and amended as to read:* No general banking law shall have effect until the same shall, after its passage, be submitted to a vote of the electors of the State, at a general election, and be approved by a majority of the votes cast thereon at such election.

SEC. 4. *So altered and amended as to read:* For all banks organized under general laws the legislature shall provide for the registry of all bills or notes issued or put in circulation as money, and shall require security to the full amount of notes and bills so registered in State or United States stocks, bearing interest, which shall be deposited with the State treasurer, for the redemption of such bills or notes in specie.

ART. XIX. SEC. 6. *So altered and amended as to read:* That elections for all district or county officers, State senators or representatives, within the boundaries defined in this article, shall take place on the Tuesday succeeding the first Monday of November, in the respective years in which they may be required; the county canvass shall be held on the first Monday thereafter, and the district canvass on the third Monday of said November.

ART. XX. Sec. 2. *So altered and amended as to read:* At the general election to be held in the year one thousand eight hundred and sixty-six, and in each sixteenth year thereafter, and also at such other times as the legislature may by law provide, the question of the general revision of the constitution shall be submitted to the electors qualified to vote for members of the legislature; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, the legislature, at the next session, shall provide by law for the election of such delegates to such convention. All the amendments shall take effect at the commencement of the year after their adoption.



RATIFIED 1866.

ART. VII. SECTION 1. *Added: Provided*, That in time of war, insurrection, or rebellion, no qualified elector in the actual military service of the United States or of this State, in the army or navy thereof, shall be deprived of his vote by reason of his absence from the township, ward, or State in which he resides; and the legislature shall have the power, and shall provide the manner in which and the time and place at which such absent electors may vote, and for the canvass and return of their votes to the township or ward election-district in which they respectively reside, or otherwise.

RATIFIED 1870.

ART. IV. SEC. 3. *So altered and amended as to read:* The house of representatives shall consist of not less than sixty-four nor more than one hundred members. Representatives shall be chosen for two years, and by single districts. Each representative district shall contain, as nearly as may be, an equal number of inhabitants, exclusive of persons of Indian descent who are not civilized, or are members of any tribe, and shall consist of convenient and contiguous territory. But no township or city shall be divided in the formation of a representative district. When any township or city shall contain a population which entitles it to more than one representative, then such township or city shall elect by general ticket the number of representatives to which it is entitled. Each county hereafter organized, with such territory as may be attached thereto, shall be entitled to a separate representative when it has attained a population equal to a moiety of the ratio of representation. In every county entitled to more than one representative, the board of supervisors shall assemble at such time and place as the legislature shall prescribe, and divide the same into representative districts, equal to the number of representatives to which such county is entitled by law, and shall cause to be filed in the offices of the secretary of state and clerk of such county a description of such representative districts, specifying the number of each district, and population thereof, according to the last preceding enumeration.

SEC. 4. *So altered and amended as to read:* The legislature shall provide by law for an enumeration of the inhabitants in the year eighteen hundred and fifty-four, and every ten years thereafter; and at the first session after each enumeration so made, and also at the first session after each enumeration by the authority of the United States, the legislature shall rearrange the senate districts, and apportion anew the representatives among the counties and districts, according to the number of inhabitants, exclusive of persons of Indian descent who are not civilized, or are members of any tribe. Each apportionment and the division into representative districts, by any board of supervisors, shall remain unaltered until the return of another enumeration.

ART. VII. SECTION 1. *So altered and amended as to read:* In all elections, every male citizen, every male inhabitant, residing in the State on the twenty-fourth day of June, one thousand eight hundred and thirty-five; every male inhabitant residing in the State on the first day of January, one thousand eight hundred and fifty, who has declared his intention to become a citizen of the United States, pursuant to the laws thereof, six months preceding an election, or who has resided in this State two years and six months, and declared his intention as aforesaid; and every civilized male inhabitant of Indian descent, a native of the United States and not a member of any tribe, shall be an elector and entitled to vote; but no citizen or inhabitant shall be an elector, or entitled to vote at any election, unless he shall be above the age of twenty-one years, and has resided in this State three months, and in the township or ward in which he offers to vote ten days, next preceding such election: *Provided*, That in time of war, insurrection, or rebellion, no qualified elector in the actual military service of the United States or of this State, in the army or navy thereof, shall be deprived of his vote by reason of his absence from the township, ward, or State in which he resides; and the legislature shall have the power, and shall provide the manner in which and the time and place at which such absent electors may vote, and for the canvass and return of their votes to the township or ward election-district in which they respectively reside, or otherwise.

ART. XVII. SECTION 1. *So altered and amended as to read:* The militia shall be composed of all able-bodied male citizens between the ages of eighteen and forty-five years, except such as are exempted by the laws of the United States or of this State; but all such citizens, of any religious denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be excused therefrom, upon such conditions as shall be prescribed by law.

ART. XIX. A. SECTION 1. *Added:* The legislature may, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on different railroads in this State; and shall prohibit running contracts between such railroad companies, whereby discrimination is made in favor of either of such companies as against other companies owning connecting or intersecting lines of railroad.

SEC. 2. No railroad corporation shall consolidate its stock, property, or franchises with any other railroad corporation owning a parallel or competing road; and in no case shall any consolidation take place, except upon public notice given of at least sixty days to all stockholders, in such manner as shall be provided by law.

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ART. IV. Strike out section 47, which prohibits the legislature from passing any act authorizing the grant of license for the sale of ardent spirits or other intoxicating liquors.

ART. IX. SECTION 1. *So altered and amended as to read:* The governor shall receive an annual salary of one thousand dollars; the judges of the circuit court shall receive an annual salary of two thousand five hundred dollars; the State treasurer shall receive an annual salary of one thousand dollars; the auditor general shall receive an annual salary of one thousand dollars; the superintendent of public instruction shall receive an annual salary of one thousand dollars; the secretary of state shall receive an annual salary of eight hundred dollars; the commissioner of the land-office shall receive an annual salary of eight hundred dollars; the attorney-general shall receive an annual salary of eight hundred dollars. They shall receive no fees or perquisites whatever for the performance of any duties connected with their offices. It shall not be competent for the legislature to increase the salaries herein provided.

ART. XX. SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives. If the same shall be agreed to by two-thirds of the members elected to each house, such amendment or amendments shall be entered on the journals respectively, with the yeas and nays taken thereon, and the same shall be submitted to the electors at the next spring or autumn election thereafter, as the legislature shall direct, and if a majority of electors qualified to vote for members of the legislature voting thereon shall ratify and approve such amendment or amendments, the same shall become part of the constitution.

